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Standing Committee on Government Agencies

Report on Agencies, Boards
and Commissions (No. 14)



1st Session, 34th Parliament
37 Elizabeth II



LEGISLATIVE ASSEMBLY
ASSEMBLÉE LÉGISLATIVE

TORONTO, ONTARIO
M7A 1A2

Queen's Park
June 1988

The Honourable Hugh Edighoffer, M.P.P.,
Speaker of the Legislative Assembly.

Sir,

Your Standing Committee on Government Agencies has the
honour to present its Report and commends it to the
House.

Allan McLean

Allan McLean, M.P.P.
Chairman.

STANDING COMMITTEE ON GOVERNMENT AGENCIES

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I. INTRODUCTION

After the General Election of September 10, 1987, the Standing Committee on Government Agencies was reconstituted under Standing Order 90(f), which gives the Committee the mandate to review the operation of all agencies, boards and commissions of the Government of Ontario. The Committee is empowered to make recommendations on such matters as the redundancy of agencies, their accountability, whether they should be sunsetted and whether their mandates and roles should be revised.¹ Eleven members serve on the Committee, with the three parties having representation corresponding to the number of seats held by each party in the House: six Liberals, two New Democrats and two Progressive Conservatives. The Chairman is of the Progressive Conservative Party.

In accordance with its terms of reference, the Committee decided to review the operation of the following agencies:²

Civil Service Commission;
Ontario Food Terminal Board;
Ontario Securities Commission; and
Pension Commission of Ontario.

During March and April 1988, the Committee conducted public hearings with respect to these agencies and heard testimony from the representatives of the agencies, and, in some cases, from the responsible ministry. The Committee wishes to express its appreciation to all the witnesses who presented their views.³ The Committee wishes to acknowledge the cooperation of the officials of the various ministries of the Government of Ontario and the agencies themselves.

¹See Appendix A for the complete text of S.O. 90(f).

²See Appendix C for a list of agencies reviewed by the Committee since 1978.

³See Appendix B for a list of witnesses who appeared before the Committee.

In addition, the Committee urges ministers under whom these agencies fall to give serious and thoughtful consideration to the Committee's recommendations.

The Committee wishes to express its appreciation to the Clerk of the Committee and the Research Officer for their assistance and dedication to the work of the Committee.

The recommendations contained in this report represent a consensus of opinion rather than complete agreement on every issue that was before the Committee. While each member of the Committee may not agree with every recommendation, your Committee is pleased to present a report that each member can support.

II. AGENCY REVIEW

ONTARIO SECURITIES COMMISSION

BACKGROUND

The Ontario Securities Commission, created by the Securities Act R.S.O. 1980, chap. 466 as amended, is the regulatory agency given the responsibility of overseeing and supervising the securities industry in Ontario. (Each of the other provinces, and the two territories, has its own securities legislation; British Columbia, Alberta, Saskatchewan and Manitoba have statutes based on the Ontario model). In addition to administering the provisions of the Security Act, the Commission is given a role under the Commodity Futures Act, R.S.O. 1980, chap. 78; the Deposits Regulation Act R.S.O. 1980, chap. 116; and under the Business Corporation Act, R.S.O. chap. 54 as amended.

The first modern Securities Act in Ontario was introduced in 1945, though securities legislation dates back to 1928 and 1931. Since then the Act and regulations have been amended and changed on numerous occasions. As the securities industry has become more sophisticated, the Act and regulations have become increasingly more complex and technical.

THE SECURITIES MARKET

The Securities Act provides the regulatory framework for the securities market in Ontario which consists of the buying and selling of "securities." Examples of securities include: shares of common and preferred stock and limited partnership units that are sold to the public and traded on a stock exchange or in the over-the-counter market; bonds and debentures issued by governments and companies; shares or units in mutual funds; warrants or rights to purchase shares; options on gold, silver, foreign currency, bonds, shares, etc. The above examples do not exhaust the types of securities that exist or that can be devised.

It should be noted that two types of markets for securities exist; the primary market comprising the buying and selling of newly issued securities and the secondary market comprising the trading of already existing securities. The latter are mostly traded on the floor of stock exchanges, while newly issued securities are usually sold over-the-counter, that is bought directly from an investment dealer.

An investor, in order to buy and sell securities, must contact a firm or individual registered with the Ontario Securities Commission. That person or firm may be a stock brokerage house, a securities firm or a mutual fund sales organization. The salesperson with whom the investor deals is commonly known as a stock broker, account executive or registered representative.

FUTURES MARKET

The futures market comprises trading in contracts that give the purchaser of the contract the right to purchase or deliver a commodity of a specific quantity and quality at some specific time in the future. Over 90% of those who purchase such contracts do not intend to take possession or make delivery of a specific good or commodity. Commodities that can be traded include such goods as wheat, cattle, wool, sugar, copper, gold, silver etc., as well as futures in money and financial instruments and Stock Index futures. The Toronto Futures Exchange only deals in financial instruments and stock futures.

The Toronto Futures Exchange opened in 1984 under the Commodity Futures Act and is located on the trading floor of the Toronto Stock Exchange. The former operates in much the same way as the TSE and is governed by rules similar to those of the Securities Act.

PURPOSES OF SECURITIES LEGISLATION

The overall objective of securities legislation is to protect the investing public. This objective is achieved through various means and techniques. One method is to proscribe and control certain fraudulent activities such as manipulation, misconduct or fraud in the market place. Another requires that investors be fully and truly informed of any appropriate facts in disclosure documents relating to publicly-offered (new) securities and that investors be advised on a continuing basis of information they need in order to make investment decisions in the secondary market. In addition, in order that only reputable individuals and firms operate in the marketplace, the Act requires that those involved as intermediaries in the selling and buying of securities be registered with the Commission, and that the Commission supervise the standards imposed upon registrants by the Act and regulations, the Toronto Stock Exchange and the Investment Dealers' Association, the self-regulating

professional body. The Commission also seeks to impose a standard of fair dealing in the marketplace by issuing policy statements that constitute a legislative response by the Commission with respect to some abuse.

These objectives and purposes must, however, be set beside several other values which implicitly compete with the objectives of any securities legislation. It has been pointed out that investor protection should not be achieved at too high a cost to the participants in the market; and that a degree of risk is inherent in the securities market. These concerns can be subsumed under the general principle that one should not overregulate.

The broader economic purposes served by a well-run and fair securities market organized around securities legislation is to ensure that Canadian needs for capital are met, that the market permits the mobility of capital and that the market provides a pricing mechanism that is appropriate to the risks involved. If these principles are adhered to, the markets in securities will be efficient in allocating scarce financial resources among the buyers and sellers. Public confidence in the securities market should encourage a larger participation by the investing Canadian public which ultimately will rebound to the general good of the Canadian economy.

MANDATE OF THE COMMISSION

The Commission has explained its mandate as follows:

The Ontario Securities Commission ("OSC") has administrative responsibility for the Securities Act, Commodity Futures Act, Deposit Regulations Act, Toronto Stock Exchange Act and Toronto Futures Exchange Act, as well as certain provisions of the Ontario Business Corporations Act. The bulk of day-to-day operations centre around the administration and enforcement of the Securities Act and the Commodity Futures Act.

The OSC's original investor protection mandate has evolved into a more complex concern for fair and efficient capital markets. There are three broad activities involved in securities regulation in Ontario and in most other jurisdictions with developed capital markets.

First of all, there is the registration of persons who trade in securities and commodities. In the case of individuals, the OSC is concerned primarily with minimum competence and integrity. In the case of firms, it is concerned with financial stability and adequate supervision of individuals. The OSC currently has approximately 8,000 salesmen and 500 companies registered. With active markets and the breakdown in the barriers between financial institutions, these numbers are increasing rapidly.

The OSC's second broad activity is the review and clearance of prospectuses. No person may trade in a security where such a trade would involve a distribution unless a prospectus is filed with the Commission. During 1986, the OSC reviewed over 600 prospectuses and similar financing documents, representing in excess of \$17 billion in financing activity, and processed over 300 applications for exemptions from the prospectus requirement.

The OSC's third broad activity involves investigations and enforcement. Staff investigate suspected violations of the legislation and, in appropriate cases, recommend either administrative proceedings before the Commission or criminal prosecution under the Act. Staff are also involved in criminal investigations for possible prosecution by the Attorney General under certain provisions of the Criminal Code relating to securities. During 1986, staff undertook approximately 100 investigations.

Staff also supervise the filing of financial statements, insider trading reports and other material. During 1986, corporate financial disclosure filings and similar filings exceeded 70,000.

The OSC is empowered to recognize associations or organizations representing registrants as self-regulatory organizations ("SROs"). The OSC has recognized the Toronto Stock Exchange (the "TSE"), the Ontario District of the Investment Dealers Association of Canada (the "IDA") and the Toronto Futures Exchange (the "TFE") as SROs, delegating to them both the authority and the responsibility to monitor and regulate their members, while retaining the power to review their decisions. SROs impose financial and trading rules on their members which are enforced through independent audit and compliance checks.

STRUCTURE AND ORGANIZATION

The Ontario Securities Commission is organized on two levels or tiers. At the top is the Commission acting as an administrative tribunal, composed of a Chairman and two Vice-chairmen (one of these positions is vacant), and eight Commissioners, all appointed by Order-in-Council. Only the Chairman and the Vice-Chairmen are full-time positions, and all positions are for three year terms. The Commission performs several functions, including purely administrative, quasi-judicial and judicial. Moreover, the Commission can advise the government with respect to legislation that touches on the Commission's areas of responsibility and the Commission can issue policy statements that are viewed as binding by those affected by the Securities Act and the Commodity Futures Act.

The principal divisions of the Commission are summarized below:

The Chairman of the Commission, as Chief Executive Officer, has over all responsibility for the OSC. The Commission formulates policy, sits as an administrative law tribunal in hearings, acts as an appeal body from decisions made by the Director and staff and makes recommendations to the government for changes in legislation. Two members constitute a quorum.

Office of the Secretary – The Office of the Secretary receives and coordinates the processing of all formal applications to the Commission and to the Director. The Secretary may accept service on behalf of the Commission and certify the Commission records as required. The OSC, through the Office of the Secretary publishes a weekly bulletin containing information on prospectuses filed with the OSC, takeover and issuer bids, new registrations, orders and rulings, new policy statements and other information on OSC activities. The weekly bulletin is published by Micromedia Limited under the authority of the Commission and is available at an annual subscription fee of \$405.

Office of the Legal Advisor – The Legal Advisor's Office supplies a wide variety of legal services directly to the Commission, including, for example, research, policy formulation, legislative drafting, private sector liaison, special projects work and general legal advice.

It is responsible for most of the legislation and regulations recommended to the Minister by the OSC. The Legal Advisor's Office is also responsible for coordinating the OSC's participation in the semi-annual meetings of the Canadian Securities Administrators (the "CSA") and in the Uniformity Committee, a CSA subcommittee which seeks national uniformity in legislation and policies.

The second tier of the Commission consists of an administrative agency composed of some 150 staff, headed by a Director.

The Director of the OSC is responsible for the administration of the Commission as well as having overall responsibility for the five operating branches of the Commission (Commodity Futures, Corporate Finance, Enforcement and Market Regulation, Capital Markets (including Registration), and Finance and Administration) and the Offices of the Chief Accountant and the General Counsel. The following is a description of the activities carried out by each of these branches or offices of the Commission:

Office of the Chief Accountant – The Office of the Chief Accountant was established in 1986 in recognition of the increasing importance and complexity of financial reporting. As the senior staff accountant, the Chief Accountant is responsible for the formulation of policy on financial reporting matters, the resolution of significant questions relating to the interpretation and application of generally accepted accounting principles ("GAAP") and generally accepted auditing standards ("GAAS") at the staff level. The Chief Accountant participates in decisions on financial reporting matters that are likely to result in a hearing before the Commission or when staff propose to accept a significant departure from GAAP or GAAS.

Office of the General Counsel – The Office of the General Counsel was created in 1986 with the objectives of augmenting the legal services available to the Commission at the staff level. The General Counsel, as senior staff lawyer, has broad responsibility for all legal matters at the staff level and is available as a resource to staff lawyers in connection with the interpretation of the Securities Act, the Regulations and the Policies of the OSC. The General Counsel participates in all decisions which result in or are likely to result in administrative or criminal proceedings under the Securities Act.

Finance and Administration – The OSC has its own finance and administration staff to oversee the internal administration of the Commission. This Branch also includes the Disclosure Section of the Commission which monitors compliance with the continuous disclosure and insider trading reporting requirements.

POWERS OF THE COMMISSION

Some of the principal powers of the Commission include:

1. Appointment of Experts

The Commission can appoint one or more experts to help the Commission in assessing the quality of information that the Commission receives. These responsibilities are carried out by Commission staff.

2. Investigative Power

The Commission can appoint someone to investigate complaints or assertions that the provisions of the two Acts have been contravened or that someone has committed an offence under the Criminal Code. These responsibilities are carried out by Commission staff.

3. Audit Power

The Commission can appoint someone to conduct financial audits of those registered with the Commission.

4. Stock Exchanges

The stock exchanges and commodity future exchanges must be approved by the Commission; the Commission also exercises broad regulatory powers with respect to such exchanges.

5. Registration Power

The Commission is given broad powers to suspend, cancel, restrict and impose terms upon a registrant, or to reprimand registrants.

6. Exemption Powers

The Commission can exempt any trade, security, person or company from the prospectus and registration requirements of the Act. The Commission can also grant exemptions from any of the requirements of the take-over and issuer provisions of the Acts. At the same time, however, the Commission can specifically deny the use of any of the prospectus or registration exemptions in the Act to any person and company.

7. Cease-trading Power

The Commission is given power to order that trading in any security be prohibited.

8. "Freeze" Order

Funds of investment firms can be frozen by the Commission or it can apply for court-appointed receivers.

9. Relief Powers

The Commission can grant relief from the financial reporting requirements, and from proxy solicitation and insider trading requirements.

It should be pointed out that the powers described above are taken from the Securities Act, though the Commission's powers under the Commodity Futures Act are similar. The various powers of the Commission are in most instances exercised by the Director or his senior staff. In addition to the powers the Director exercises on behalf of the Commission, the Securities Act gives the Director a number of specific duties and powers. Included among these powers are: to grant registration where the applicant is suitable and such registration is not objectionable; to prohibit the use of advertising and sales literature where the Commission has ordered submission of same for review; to issue receipts for prospecting syndicate agreements, for preliminary prospectuses; to permit the variation of prospectus certification requirements; to refuse to issue receipts for prospectuses in certain circumstances; to refer material or novel questions arising in connection with prospectuses to the Commission for determination; to make an order waiving compliance with the Act's requirements in respect of a distribution of

previously issued securities; to order that trading cease where the preliminary prospectus is defective. Several of these powers are exercised by the Director's senior staff.

Again, it should be pointed out that these powers are exercised by the Director or his staff under both the Securities Act and the Commodity Futures Act.

SECURITIES ACT: MAJOR PROVISIONS

As has already been stated previously, the objective of securities legislation is to protect the investing public from fraudulent practices. The Ontario Securities Act, in addition to providing the Securities Commission with various powers in order to perform its regulatory functions, seeks to regulate certain types of activities.

1. Registration of Participants

It is a requirement of the Securities Act and the Commodity Futures Act that market participants must be registered with the Commission. Certain requirements must be met before registration is granted to dealers, underwriters, brokers, mutual fund salespeople and others. If such requirements are not met on a continuing basis, the right to participate in the securities business can be taken away by the Commission. The emphasis with respect to individuals is on competence and integrity, while for firms the emphasis is placed on minimum capital and certain types of business record requirements.

The Securities Act exempts certain entities, such as banks, and individuals, such as lawyers, from registering as advisors. Moreover, if certain specified trades in securities are entered into, registration of participants in that trade may not be required. One of the more significant provisions stipulates that where there is a trade in securities the cost of which to the purchaser exceeds \$115,000, the participants do not have to be registered. Further, registration is not required if trading takes place in respect of certain securities, mainly those that evidence some form of indebtedness, such as bonds, debentures, etc.

The Act also includes more general provisions, dealing with such matters as advertising, and direct telephone solicitation of trades.

2. Prospecting Syndicates

The Act sets out under what circumstances prospecting syndicate agreements can be filed with the Commission.

3. Prospectus Requirements

This is one of the more important requirements of the Securities Act. Before securities may be issued to the public a prospectus must be filed with the Commission. The purpose of the prospectus is to provide potential investors with complete information about the business affairs of the issuer of the security. First a preliminary prospectus is filed, which is reviewed by the Director, indicating any deficiencies. Then, if the Director accepts the changes, a final prospectus is filed.

The Securities Act permits certain distributions, trades and purchases to be exempt from the prospectus requirement. Moreover, the Commission is given the power to exempt any trade, intended trade, security, person or company from the registration and prospectus requirements.

4. Continuous Disclosure

The Securities Act requires that, in addition to the prospectus requirement for new security issues, there be continuous disclosure of material information from firms whose securities are traded by the public. Firms must file quarterly and annual financial statements with the Commission, and must mail the statements to all holders of voting securities. Annual statements must be filed with the Commission. In addition to these financial reports, the issuers of securities must announce any material changes in the affairs of the firm that may affect the value of the firm's shares immediately and publicly – by press release, to the Commission and to stock exchanges. All investors must be given an equal opportunity to assess material information on a timely basis.

5. Proxies and Proxy Solicitation

When a firm sends out a notice of a shareholders' meeting, it must also send out a form of proxy which, when signed by the shareholder, entitles the proxyholder to vote the shareholder's interest at the meeting. In addition, the solicitor of a proxy must disclose information set out in the regulations by means of a circular.

6. Take-Over Bids and Issuer Bids

When someone seeks to acquire 20% or more of a company's outstanding voting securities, or when the company itself seeks to buy back any or all of its securities, those involved in such bids must ensure that those holding the securities are adequately informed of the bids. Moreover, when such bids are offered, minority shareholders are entitled to be given the same value in return for their shares as is given to majority shareholders.

In 1987, this section of the Securities Act was amended, though some sections have not, at time of writing, been proclaimed.

7. Insider Trading and Self-Dealing

In general terms, an "insider" is anyone who has access to special knowledge about a firm that either expects to issue or has issued securities to the public. The Securities Act requires that insiders file an insider trading report with the Commission within 10 days after the end of each month during which any change took place in personal security holdings. Such information is subject to Commission monitoring and enforcement.

An insider is liable if he buys or sells securities with knowledge of a material fact or change in the affairs of a company that was not generally disclosed to the public. Liability is also attendant upon an insider tipping or passing on material information to someone else without public disclosure. Provision is also made for compensating third parties.

On February 15, 1988 amendments to the Securities Act relating to insider trading were proclaimed by the Minister responsible. These amendments expand the definition of what an "insider" is to include a broader range of individuals, and for the first time, the legislation covers "tipping".

The amendments provide for a minimum fine equal to the profit involved. The maximum fine has been set at the greater of \$1 million or three times the profit.

Other penalties have also been revised. Thus, the maximum penalty for most offences under the Act has been set at \$1 million and two years in jail.

HEARINGS, REVIEWS AND APPEALS

Under both the Securities Act and the Commodity Futures Act, the Director of the Commission, the Commission, or a stock or commodities exchange are given the power to make binding decisions at their discretion. In each instance, the Acts provide that such decisions can either be reviewed or appealed.

Thus, where the Director makes a decision, that decision can be reviewed by the Commission upon the request of any person directly affected by the Director's decision, or on the initiative of the Commission. The decision of the Director takes effect immediately, though the Commission may grant a stay.

Any decision of the Commission can be appealed to the Divisional Court, except those decisions that grant exemptions from prospectus and registration requirements.

Moreover, a decision by a stock exchange can be reviewed by the Commission upon application by any person directly affected by the decision of the stock exchange.

Under the Commodity Futures Act the review and appeal procedures are similar to those under the Securities Act. The one additional procedure provides for review by the Commission of decisions made by a recognized self-regulatory body, upon application by any person directly affected by the decision.

FINANCES AND BUDGET

Under the regulations to the Securities Act and the Commodity Futures Act, the Commission is empowered to charge fees for certain administrative services performed by the Commission. In years past, the revenue collected from fees and other charges not sufficient to cover the Commission's was operating expenses. On July 1, 1986, the fees were increased substantially. The results are revealed in the following revenue figures.

	<u>1987</u>	<u>1986</u>
Registration – Brokers and Salesmen	\$2,888,577	\$976,853
Prospectus filings	4,502,959	1,058,346
Rulings	171,732	43,486
Disclosure – filing, etc. fees	1,125,048	29,939
Commodity Futures Branch	89,501	135,828
Miscellaneous	<u>17,089</u>	<u>20,196</u>
	\$8,794,906	\$2,264,648

These moneys, however, are not retained by the Commission but are remitted to the Consolidated Revenue Fund. In other words, the Commission does not have a free hand in setting its budget or in controlling its finances. Rather the Commission's financial requirements form part of the Estimates of the Ministry of Financial Institutions, thereby requiring the Ministry's and ultimately the Legislature's approval.

The Commission's overall yearly budget allocation is set by the Ministry, subject to Management Board approval. Over the last several years, the allocations have been as follows: 1987 – \$6,149,600 and 1986 – \$5,461,200. In each of these years, the allocation has been exceeded: in 1987 by \$242,115 and in 1986 by \$94,229. In 1986 the expenditure overrun should be compared to the revenue intake of \$2,264,648. Clearly the fee structure in that year (and in previous years) was set too low. In 1987, however, the revenue intake was \$8,794,906, and if the Commission had been able to set this revenue against its expenditures, it would have had a substantial surplus.

Following the standard accounts categorization, the Commission's actual expenditures in the last two years are as follows:

	<u>1987</u>	<u>1986</u>
Salaries and wages	\$4,443, 751	\$3,952,206
Employee benefits	650,662	548,976
Transportation and Communications	265,326	208,031
Services	831,368	708,397
Supplies and equipment	<u>200,608</u>	<u>142,319</u>
	\$6,391,715	\$5,555,929

The increase in salary levels reflects the fact that the Commission was authorized to increase its staff complement by 23 positions. The need for increased staffing levels is due to the fact that the Commission's regulatory responsibilities were substantially increased as a result of the deregulation of the securities industry that allowed banks, loan and trust companies and insurance companies to participate in activities which were formerly restricted to securities dealers.

At the same time, the Commission has experienced considerable turn-over with respect to its professional staff, who have taken advantage of more lucrative job opportunities in the private sector. The Commission has recognized, and the Ministry has approved, the need to increase the salary levels in order that they be more competitive with the private sector.

ACCOUNTABILITY AND CONTROL

Management Board of Cabinet has designated the Ontario Securities Commission as a Regulatory agency within Schedule I. Agencies within this schedule are funded out of the Consolidated Revenue Fund or out of monies collected from the public by means of levies. In the case of the Commission, the former case applies, so that the expenditures of the Commission are part of the expenditures of the Ministry of Financial Institutions. Monies for the Commission are appropriated by the Legislature and the Estimates of the

Commission form part of the Estimates of the Ministry of Financial Institutions. Another characteristic of Schedule I agencies is that they are able to adhere to all management directives established by the Management Board, and have their administrative-support services provided by the responsible ministry, unless the agency is of a sufficient size as to be able to provide its own support services in a more efficient and effective manner. The Commission is of a sufficient size to have its own staff, though some services are provided by the Ministry.

As a Schedule I agency, the Commission is required to have a Memorandum of Understanding with the Ministry. The existing Memorandum signed in 1986 establishes the relationship and responsibilities of the Commission and the Ministry. The role of the Minister is to present the Estimates of the Chairman of the Commission to the Legislature as part of the Estimates of the Ministry of Financial Institutions; to ensure that the Commission is informed of Ministry and Government financial and administrative policies, procedures and directives that have, or will have, an influence on the Commission; and to provide direction and/or consent for any court proceeding that may be instituted under section 118 of the Securities Act.

On the other hand, the Commission is made responsible for: ensuring the Canadian securities and commodity futures markets operate efficiently, with integrity and as free as possible from dishonest activities; providing protection to investors by setting minimum standards of conduct expected from persons and companies registered with the Commission, and providing information to investors by requiring disclosure of risk to all classes of investors; carrying out its responsibilities within the limits of its jurisdiction, in accordance with relevant law, responsibly and fairly, and in the public interest; ensuring that the Toronto Stock Exchange and the Toronto Futures Exchange operate efficiently and with integrity and in the best interests of the investing public; ensuring that matters relating to the Commission and considered by the Commission or by legislation to be of importance to the Minister, are brought expeditiously to the attention of the Minister; preparing such reports as are required under the Ontario Securities Act or the Memorandum to be filed with the Minister; and through its Director, ensuring its administrative staff are knowledgeable about and adhere to Ministry and Government financial and administrative policies and procedures.

With respect to financial arrangements, the Commission is required to prepare plans and an annual budget, and Ministry staff shall assist the Commission in the preparation of those plans, the annual budget and Management-By-Results forecasts.

Moreover, the Commission is required to operate within the voted appropriations or assigned budget, and where changes are sought the Commission must seek the advance approval of the Ministry. Also, the Commission must abide by the financial policies expressed in the Ontario Manual of Administration, the Manual of the Office of the Treasury, the Ministry Financial Manual, and other Ministry directives, save those policies that are exempted in the Memorandum.

Under audit arrangements, the Memorandum requires that the Commission be subject to the Ministry's Internal Audit Branch, as well as audits by the Provincial Auditor.

In terms of reporting relationships, the Commission is required to report to the Minister through its Chairman. The Director is made the chief administrative officer of the Commission and reports to the Commission on operations and the implementation of policy. The Chairman must obtain the approval of the Deputy Minister where approval is required under the Manual of Administration. The Chairman and/or the Director can ask the Ministry for support on day-to-day administrative matters.

With respect to administrative relationships, the Commission is subject to all the administrative policies of the Manual of Administration. The Ministry is required to provide the Commission with administrative support, including access to professional and technical Ministry staff to obtain advice. However, any advice offered does not alter the Commission's sole responsibility for making decisions.

Staffing by the Commission is subject to all personnel policies set out in the Manual of Administration and in Ministry personnel policies, and the Vice-chairmen and staff of the Commission are appointed under the Public Service Act.

The Commission is assisted by the Financial Disclosure Advisory Board and the Commodity Futures Advisory Board. These two bodies were subject to sunset review on or before March 31, 1987.

The Chairman of the Commission is also required to provide timely information and advice with respect to matters within the jurisdiction of the Commission and which require the attention of the Minister or that may raise questions in the Legislature. The same requirement applies to the Director in relation to the Deputy Minister. In addition, the Chairman is required to provide the Ministry with various reports, including: annual calendarizations, quarterly variance reports, annual Ministry planning submission, and an annual report of the Commission's affairs for inclusion in the Ministry's annual report.

Apart from any requirement of the Securities Act and regulations, and the Memorandum of Understanding, the Commission in its capacity as an administrative tribunal, makes decisions independently of government. While its decisions are not reviewable by the government, it is subject to the courts. All decisions of the Commission, save those in respect of rulings under section 73, can be appealed to the Supreme Court of Ontario, by a person directly affected. Moreover, any decision of the Commission including section 73 rulings is reviewable by the courts under the Judicial Review Procedure Act.

RECOMMENDATIONS

The last several years, but particularly the last year, have been a time of change and transition for the securities industry and the Ontario Securities Commission. Reregulation has resulted in the opening of the industry to several new intermediaries in addition to the traditional investment firms and brokerage houses. Now federally chartered banks, trust and insurance companies can offer investment services through approved subsidiaries, and a number of banks have already acquired several prominent Canadian investment firms. At the same time, foreign investment firms can acquire full ownership of their Canadian equivalents. This reregulation has come in the wake of the deregulation of commission rates that investment dealers can charge their clients. The overall effect of these changes has been to increase the level of competition within the Canadian securities industry itself and in relation to other markets elsewhere, in particular American markets.

Most of these changes were contemplated and introduced during the stock market boom that preceded the collapse of that boom in October of 1987. The long-term repercussions of policy decisions taken by federal authorities and the Ontario Government, along with the implications of the stock market crash, are yet to be fully understood. There may well be a need for further changes and adjustments, particularly of a regulatory nature.

It is the contention of the Committee that maintaining public confidence in the securities industry and in the regulatory role of the Ontario Securities Commission should be one of the overriding objectives of the Ontario Government and the Commission. In light of this concern, the Committee makes the following observations and recommendations.

One of the principal objectives of the Commission is to provide a regulatory framework for the securities industry that will protect the investing public from fraud and stock manipulation. Undoubtedly the securities industry is highly complex, in part reflected in the detailed and technical language of the Securities Act and regulations.

It has been frequently noted that relatively fewer Canadians invest in the stock markets than Americans. Moreover, it has also been noted that the public's perception of stock markets has been negative to some degree. There is the nagging doubt as to how "safe" stock markets are as an investment vehicle. In this context, the Committee believes that the Commission has a role to play. It may be that not only do Canadians need to learn how the securities industry and the stock markets work, but, just as importantly, there is a need for the general public to know the regulatory framework the Ontario Securities Commission provides.

The Committee is encouraged that the Commission has begun to take a more proactive role with respect to the public's understanding of the regulatory process. In 1987 the Commission issued its first separate annual report, containing comprehensive information on the Commission's activities. Moreover, the Commission has published a pamphlet outlining how the securities industry operates and the role of the Commission in maintaining high standards of conduct on the part of the participants.

The Committee believes that the Commission should take a proactive role in communicating with the general public. An informed public that better understands the regulatory functions of the Commission is much better placed to assess the relative "safety" of investing in stock markets.

Your Committee, therefore, recommends that:

1. The Ontario Securities Commission adopt a proactive policy of communicating its regulatory role to the general public.

Commensurate with a more proactive communications policy, the Committee is of the opinion that the Commission should adopt a more proactive regulatory stance. As has been already noted, the securities industry is in a transition period characterized by the internationalization of capital markets, new and sophisticated security vehicles, and by the reregulation of financial intermediaries. At the same time, the Securities Act has been amended to provide the Commission with more regulatory authority with respect to such matters as insider trading and take-over bids. The Committee believes that during this period of transition the Commission should take the opportunity to assert its regulatory functions and to give a strong signal to the securities industry that the Commission is in a strong position to demand the highest standards of conduct and integrity. The collapse of Osler Inc., a major Toronto investment firm, that could result in a potential loss to its creditors of some \$65 million, underscores the need for the Commission to review the way it administers the Securities Act, and the roles of the Toronto Stock Exchange and the Investment Dealers' Association.

The Committee believes that the Ontario Securities Commission should begin by ensuring that its operational and administrative capabilities are functioning effectively. In this regard, the Commission will have to resolve its staffing problems. Over the last year it has lost a significant portion of its staff to the private sector, staff that were experienced in enforcement and audit matters. Not only does the Commission need to fill these positions as quickly as possible, but it will need to train any new staff in the intricacies of the Securities Act and the procedures of the Commission.

At the same time, the Committee is aware that the Commission will soon computerize its documentation flow and procedures, thereby enhancing and strengthening its internal administrative and decision-making processes. The Committee welcomes this development in light of its observations and recommendations.

The Committee believes that as a result of these internal changes, the Commission will be able to deal with public complaints and other information sources that allege breaches of the Securities Act in an orderly and expeditious manner. Additional staff and computerization should place the Commission in a position to deal more effectively with its caseload. An opportunity will exist for the Commission to streamline and prioritize its investigations of alleged breaches of the Act.

Your Committee, therefore, recommends that:

2. The Ontario Securities Commission undertake to streamline and prioritize its investigations of alleged breaches of the Securities Act.

The Osler Inc. collapse has highlighted the need for a thorough review of the Commission's enforcement and audit procedures. Moreover, since some of this work is delegated to the self-regulating Toronto Stock Exchange and the Investment Dealers' Association (Ontario), the Commission will have to review its relationship with these organizations.

The Committee believes that the Commission's responsibility to ensure that investment firms are financially solvent requires an audit process that acts as an "early warning system" for the regulators and the firms in question. It is not inconceivable that under present market conditions and as a result of deregulation and reregulation, other investment firms may find themselves in a situation similar to Osler's.

Your Committee, therefore, recommends that:

3. The Ontario Securities Commission undertake a comprehensive review and study of its enforcement and audit procedures with a view to creating an "early warning system" for financially troubled securities firms.

The Osler collapse also points out the inadequacy of the National Contingency Fund, created by the securities industry to cover instances where the public has suffered financial losses as a result of the actions of investment dealers and brokers. The Fund levies the country's brokers of a percentage of their annual revenues, and has been used in the past to cover relatively minor losses of no more than a million dollars. The Osler collapse with a potential of \$65 million loss cannot be covered by the Fund with its resources of some \$15 to \$17 million.

The Committee feels that the adequacy of the Fund is now in some doubt, and believes that the Commission should actively pursue with the self-regulating bodies and the securities industry as a whole, ways to strengthen the resources of the Fund and its role in the industry.

Your Committee, therefore, recommends that:

4. The Ontario Securities Commission, in cooperation with the Toronto Stock Exchange, the Investment Dealers Association and other Canadian regulatory agencies, undertake to review the adequacy of the National Contingency Fund.

The previous recommendations have touched on the relationship of the Ontario Securities Commission to the self-regulating associations, in particular the Toronto Stock Exchange and the Investment Dealers' Association (Ontario). Under the Securities Act, the Commission can delegate certain oversight functions to these organizations.

The Committee is concerned that these organizations may not be fully aware of the responsibilities they have as self-regulating associations. There may be a public perception that self-regulation may impose a less stringent code of conduct than if that conduct was enforced by a third party such as the Commission.

It seems appropriate to the Committee that the role of self-regulating organizations should be reviewed with respect to the effectiveness of self-regulation in relation to the Commission's role as the agency charged with overseeing the securities industry.

Your Committee, therefore, recommends that:

5. **Ontario Securities Commission, in cooperation with the Toronto Stock Exchange and the Investment Dealers' Association (Ontario), undertake a comprehensive review of the effectiveness of self-regulating organizations within the context of the regulatory framework provided by the Securities Act.**

The securities industry and the Ontario Securities Commission are entering a new phase in the development of securities markets. The issues will be complex and varied, touching on not just Ontario and Canadian trends and developments, but also those that arise in a global context. This is an opportune occasion for the Ministry of Financial Institutions and the Ontario Securities Commission to position the latter on a strong proactive foundation.

The Committee has made several recommendations to further this course of action. At the same time, however, the Committee feels that several other approaches would help to achieve this objective.

The Ministry of Financial Institutions has been recently created to oversee all aspects of the financial markets in Ontario, and is responsible for the work of the Ontario Securities Commission. Undoubtedly the Ministry is in the process of organizing itself and developing policies with respect to its responsibilities.

The Committee feels that the combination of circumstances, including the reregulation and deregulation of the securities industry, the reorganization of the Ontario Securities Commission along lines already contemplated by the Commission itself and as suggested by the Committee, and establishment of the new Ministry of Financial Institutions, creates an opportunity for a thorough review of the Securities Act in light of the concerns expressed and recommendations made by the Committee.

Your Committee, therefore, recommends that:

- 6. The Ministry of Financial Institutions in conjunction with the Ontario Securities Commission undertake a comprehensive review of the Securities Act and related legislation.**

While such a review would necessarily focus on the legal aspects of securities legislation, the administrative and operational activities should not be neglected. As the Committee has already noted, the Ontario Securities Commission is in a transition stage, the result of reregulation and deregulation, with these developments coming at just the time of the October 1987 stock market "crash", which produced considerable dislocation within the securities industry. The Committee believes the Commission should learn from these events, and be in a stronger regulatory position in the future, particularly with respect to how well the Commission itself functions.

Consequently, the Committee believes that the Provincial Auditor could make a contribution in strengthening the Commission by undertaking an efficiency audit of the Commission. He should have access to any consultants' reports that have or will be undertaken while he conducts his audit.

Your Committee, therefore, recommends that:

- 7. The Ministry of Financial Institutions ask the Provincial Auditor to undertake an efficiency audit with respect to the Ontario Securities Commission.**

In conclusion, the Committee wishes to raise the question of its own effectiveness. Over the years, this Committee, like its predecessor committees, have attempted to fulfill its mandate of reviewing the 300 or more agencies, boards and commissions of the Government of Ontario. Served by its staff of one committee clerk and one research officer from the Legislative Library, the Committee has attempted to undertake comprehensive reviews of the agencies the Committee selected for review. In some cases, the Committee's staff resources have been adequate in providing

it with the necessary information required to conduct each review. However, there are instances when the Committee selects an agency that is large and complex with respect to its assigned public responsibilities. In these circumstances, the Committee believes it should be able to augment its staff complement. Specifically, the Committee would like to draw on the staff resources of the Provincial Auditor. Their accounting and operational performance knowledge and expertise would be of great benefit to the work of the Committee. Consequently, the Committee will undertake to discuss with the Provincial Auditor the possibility of seconding his staff to the Committee on a project by project basis.

PENSION COMMISSION OF ONTARIO

BACKGROUND

The Pension Commission of Ontario was first created in 1965 under the Pension Benefits Act to maintain minimum standards for employer-sponsored pension plans in Ontario. The aim of the legislation was to protect vested benefits for employees who terminate employment and to regulate the solvency of plans and the investment of pension plan assets. In 1987, the Pension Benefits Act was substantially amended and revised by Bill 170 passed in June of 1987.

Over the last decade, pension reform has been the subject of considerable discussion and debate, both nationally and provincially. In 1977 the Royal Commission on the Status of Pensions in Ontario was established, and in 1982 the Select Committee on Pensions issued its final report.

Regulation of private pension plans comes within provincial jurisdiction, except for plans covering employees in industries regulated by the federal government. Over the years attempts to create uniform legislation between provinces has been difficult to achieve. Bill 170 reflects a consensus that was established at the national and provincial levels.

STRUCTURE AND ORGANIZATION

The Commission is an administrative tribunal organized on a two-tier level. The first tier consists of the members of the Commission, of whom there are nine appointed by the Lieutenant Governor in Council for three year terms subject to reappointment for another three years. A head and deputy head are appointed from the members of the Commission.

It is the duty of the Commission to administer the Act and regulations; to promote the establishment, extension and improvement of pension plans in Ontario; to advise the Minister in respect of the business of the Commission; and to make recommendations to the Minister in respect of pension plans. Moreover, the Commission is required to conduct surveys and research programs and to compile statistical information related to pensions and pension plans.

The remuneration for the Commissioners is as follows: the Chairman currently has Deputy Minister's status and remuneration; the Vice-Chairman receives \$220.00 per diem and other members receive \$175.00 per diem. In 1987 the Board met sixteen times, excluding sub-committee meetings.

Below the Commissioners is the Superintendent of Pensions, who is appointed by the Commissioners and is made the chief administrative officer. The Superintendent oversees a staff of 68, all appointed under the Public Service Act. It is the responsibility of the Superintendent to ensure that all pension plans registered with the Commission comply with the provisions of the Act.

As a result of the passage of Bill 170, that substantially amended the Pension Benefits Act and gave the Pension Commission added new responsibilities, the Commission has undertaken a major restructuring of its organization and its methods of operation. Its proposals for this restructuring are contained in its Strategic Plan of September 1987.

The Plan envisages that there will be three divisions or units in the Commission reporting to the Superintendent. The first unit is designated Pension Plans and is made responsible for:

- The analysis and examination of complex pension plans and related documents, and the review, registration and approval of every complex pension plan that is negotiated, established, re-issued or modified in order to ensure conformity to Ontario's pension legislation, and to monitor solvency;
- The review and analysis of all actuarial reports, plan wind-ups, and requests for refunds of surplus, in accordance with the established guidelines and policies;
- The monitoring of pension plan investments, in accordance with established guidelines;
- The resolution of written and verbal enquiries from the public and the pension industry regarding pension plans or pension matters, including the relaying of interpretations made by the Commission on pension legislation;
- The administration of the pension legislation of other jurisdictions on their behalf, in accordance with their requirements and guidelines, and with the Reciprocal Agreement endorsed by those jurisdictions;
- The summary of special situations which must be brought to the attention of the Commission, and the recommendation of possible solutions to these;

- The participation in the framing of policy and changes in or amendments to the Ontario Act and Regulations;
- The representation of staff in hearings held by Sub-committees of the Commission involving appeals from the public against Orders issued by the Superintendent or decisions made by the Commission or its staff.

The second unit is designated as the Secretariat and is made responsible for:

- The development of standards and policies regulating pension plans in Ontario;
- The provision of professional consultation and technical advice and assistance in the actuarial, investment, financial analysis, legal and investigative fields to the Commission and its staff;
- The co-ordination of research activities to ensure awareness on the part of the Commission of current issues, developments in other jurisdictions, and the impact of socioeconomic and financial trends;
- Ensuring the conduct of timely and appropriate legal research, the proper representation of the Commission in hearings and litigation, the enforcement of the regulatory legislation and the prosecution, when necessary, of those who are in contravention;
- The provision of a communications program, including correspondence, bulletins, speeches, press releases, statements, etc., in response to media enquiries;
- The administration of effective support to the Commission through liaison with members, and the preparation of agendas, minutes and briefing notes and the notification of pension plan administrators of decisions of the Commission;
- The administration of the Pension Benefits Guarantee Fund, and participation in the formulation of investment policy and procedures for that Fund.

The third unit is designated as Operations and is made responsible for:

Front End Processing

- The receipt, deposit, categorization, vetting and data capture of all documents related to the Pension Benefits Act;
- The front end processing of all standardized documents related to registration of pension plans;

- The administration of the Commission's computer system(s) and the distribution of all output.

Systems Planning

- Researching, planning, developing and implementing activities and tasks related to both computer and manual systems in support of the processing requirements of the Commission's mandate;
- Anticipating and improving the operating efficiency of the Commission, recommending and implementing innovative solutions as a result of technological advances.

Finance and Administration

- Development and implementation of policies, systems, and procedures relating to financial and resource planning, control and evaluation systems to meet Commission goals and objectives, and the standards set by the Ontario Public Service;
- Providing centralized administrative and support services for the Commission, including records management, security programs, accommodation, and human resources.

Strategic Planning

- Developing and formulating strategic plans and priorities; resource and organizational requirements and the review and evaluation of operational program performance.

Each division is headed by a Director reporting to the Superintendent.

HOW THE ACT WORKS

The Pension Benefits Act can be said to operate on two levels – the administrative and the quasi-judicial.

1) Administrative

At the administrative level, the Act requires that administrators of pension plans or employers of pension plan members do certain things to comply with the provisions of the Act and regulations. Thus, for example, all plans must be registered with the Commission and the Superintendent of the Commission has the power to refuse registration of a plan or an amendment, or he can revoke registration. In addition, the Superintendent is required under several sections of the Act to grant approval to certain actions taken by an administrator of a pension plan, or has the power to issue orders in certain circumstances.

In addition to any specific sections of the Act that require the Superintendent to make an order or approve of certain actions, the Act gives the Superintendent a general power to issue orders in respect of breaches of the Act. Similarly, the Commission itself is given a general power to issue orders with respect to the preparation of reports that are required to be submitted to the Commission.

The overall objective of the administrative sections of the Act is to ensure that pension plans are administered according to the Act.

The Commission regulates 10,000 pension plans covering approximately 1.8 million workers in Ontario. Of these plans, some 7,700 contain 50 members or less. The majority of the plans (76%) cover small business enterprises. On the other hand, 290 plans, or only 2% of all plans, contain 1,000 or more members. This small number covers over 70% of all of the people in registered pension plans in Ontario. Private pension plans control around \$55 billion in assets, not including the amount of assets that are held in the public sector plans.

However, only 37% of employees in Ontario are covered by private sector pension plans. The remaining 63% rely on the Canada Pension Plan.

2) Quasi-Judicial

The Commission also serves as an administrative tribunal which hears appeals from decisions made by the Superintendent of Pensions and hears representations from those affected by certain decisions made by the Commission itself.

Where the Superintendent or the Commission makes an order that something be done, the Superintendent or Commission must serve notice on the person affected by the decision that he or she is entitled to a hearing by the Commission. A request for a hearing must be made within thirty days from the time the notice was received. The Commission has the power to issue an order directing the Superintendent to carry out or refrain from carrying out the proposal, and the Commission can substitute its opinion for that of the Superintendent where the Commission is required to judge whether the Superintendent ought to take certain actions in accordance with the Act and regulations. The Commission can attach such terms and conditions to its order

or to the registration as the Commission considers proper. The Superintendent, the person who requires a hearing and such other persons named by the Commission are parties to the proceeding, and a party to a hearing is given reasonable time to comply with registration requirements and to see any written or documentary evidence.

Where the Commission itself proposes certain actions, the administrator, the persons and the representatives and members of classes of persons specified in the notice are entitled to make written representations to the Commission. The Commission must notify those who made representations of its decision.

A party to a proceeding before the Commission with respect to surplus matters, the various powers of the Superintendent or with respect to the Commission's own powers to make orders, can appeal the Commission's decision to the Divisional Court.

PROVISIONS OF THE ACT

1) Registration

The Pension Benefits Act requires that all pension plans in Ontario that are eligible for registration are registered with the Commission through the Superintendent. Conditions of eligibility are set out in the Act. Any amendments to a pension plan must also be registered with the Commission, but certain types of amendments, those that reduce benefits, are not acceptable for registration. The Superintendent issues certificates of registration with respect to pension plans and notices of registration with respect to amendments.

The Superintendent has the power to refuse or revoke registration of a pension plan and refuse or revoke an amendment. In each instance, the Superintendent's decision is reviewable by the Commission. Where the Superintendent has refused to register or has revoked the registration of a plan or an amendment, such action means that the plan or amendment has been terminated, and where the registration of a plan is refused or revoked, the plan has to be wound up in accordance with the Act and regulations.

2) Administration

The Act requires pension plans to be administered by an administrator in accordance with the Act and regulations. The administrator is required to exercise care, diligence and skill in the administration and investment of the pension fund and must use all relevant knowledge and skill. An administrator cannot place him or herself in a conflict of interest, nor is the administrator entitled to any special benefit from a pension plan.

The members, or former members, of a pension plan can establish an advisory committee to monitor the administration of a pension plan, make recommendations to the administrator respecting the administration of the plan, and promote awareness and understanding of the plan on the part of the members of the plan.

3) Disclosure of Information

The Act requires the administrator of a pension plan to keep members of a plan and eligible members, fully informed as to the provisions of a plan, their rights under the plan, any changes to the plan, particularly any changes that may adversely affect the benefits that a member might receive.

Provision is also made for a member, former member, a spouse of a member, an agent or a trade union representative to ask for and inspect all the relevant documents with respect to a pension plan.

4) Membership

The Act stipulates that every employee for whom a pension plan has been established can become a member of the plan after completing two years of continuous full-time employment. Moreover, part-time employees who meet certain conditions can also become members in a pension plan. Disputes as to whether an employee is or is not a member of a pension plan are settled by the Superintendent, subject to review by the Commission.

5) Vesting

The Act has been changed so that after January 1, 1988, when the Act was proclaimed, a member of a pension plan will be vested if the member has been a member for two years, with no age qualifications. Similar provisions exist for part-time employees. This provision, however, does not apply retroactively to those who become members of a plan before this date.

6) Benefits

The Act details the pension benefits a member of the plan is entitled to receive and includes provisions that require the employer to fund at least 50% of pension benefits earned by plan members after January 1, 1987 and that allow pension plans to provide various ancillary benefits that provide for a member who is within ten years of the normal retirement age to take early retirement and receive an immediate pension, though at a reduced actuarial rate. Where a plan member terminates his or her employment prior to receiving immediate payment, the plan member is entitled to have the value of his or her pension transferred to another pension plan or to a prescribed retirement savings arrangement or to an annuity purchased from an insurance company.

Another provision requires that where a person who is about to receive the first payment of a pension was a spouse, the pension must be in the form of a joint or survivor benefit unless the member and the spouse choose otherwise. The pension payable to a surviving spouse may be reduced to no less than 60% of the original pension on the first death. Moreover, survivor benefits payable under a pension plan shall not be terminated by the remarriage of the recipient.

Pension plans will not be permitted to discriminate on the basis of the sex of a plan member with respect to benefits or employee contributions. Offsets to pensions resulting from entitlement to payment under the Canada Pension Plan, the Quebec Pension Plan or the Old Age Security Act will be regulated by a prescribed formula. In future, reductions resulting from an entitlement under the Old Age Security Act will be prohibited.

7) Contributions

A pension plan is not eligible for registration if it does not provide for funding sufficient to provide the pension benefits, ancillary benefits and other benefits. The Superintendent is required to be notified where a contribution to a plan is not made, and the administrator can go to court to obtain payment of contributions. The selection of an investment made with the assets of a pension fund has to be made in accordance with the criteria set out in the Act and regulations.

8) Locking-In

As a general rule the Act does not permit a member, or a former member to receive a refund of contributions, though a number of exceptions are made to this rule. In the latter instances the approval of the Commission is required.

9) Winding Up

The employer or administrator of a pension plan can wind up the plan in whole or in part. The Superintendent can by order require a plan to be wound up under certain specified circumstances, such as bankruptcy, for example. The Superintendent can refuse to approve a wind-up if the requirements of the Act and regulations are not followed.

If a member of a pension plan is at least 55 years of age on the date of the wind-up of the plan, he or she has the right to receive a pension under the circumstances set out in the Act.

10) Surplus

The Act stipulates that no money may be paid out of a pension fund to the employer without prior consent of the Commission, and where the employer seeks such approval, notice of the application must be sent to each member or former member, each trade union that represents a member, any other individual who is receiving payments, and the advisory committee overseeing the fund.

The Commission can consent to a payment to the employer out of the pension fund if there has been an overpayment, but only if the overpayment was made in the same fiscal year of the pension fund as the fiscal year in which the overpayment was made. The Act further sets out the matters that the Commission has to take into consideration in making its decision.

A pension plan that does not provide for the withdrawal of surplus moneys while the pension plan continues in existence, shall be construed to prohibit the withdrawal of surplus monies after 31 December 1986. This is a retroactive provision that does not take effect until 1 January 1989, thereby giving time for the adjustment of pension plans.

The Commission is prohibited from consenting to a payment of surplus monies to the employer out of a continuing pension plan until a prescribed date.

11) Sales, Transfers and New Plans

If an employer sells his business, the benefits of the old pension plan are maintained until the date of the sale, and a member is entitled to credit in the successor employer's pension plan. Where there are transfers of assets from the old employer's plan to the new employer's plan, the Superintendent's approval is required.

If an employer creates a new pension plan and makes no contribution to the old plan, the new plan is deemed to be a continuation of the old plan.

12) Pension Benefits Guarantee Fund

Established since 1980, the Fund guarantees certain of the pension benefits provided under defined benefits pension plans in the event of a plan wind-up.

The Fund is built up from premiums paid by employers with employees in Ontario who are covered by a pension plan with an unfunded liability.

FINANCES AND BUDGET

The Pension Commission of Ontario receives revenue from registration fees and annual information return filing fees, and where applicable from fines. Where such revenue is not sufficient to cover the expenses of the Commission, the difference is covered by the Ministry of Financial Institutions and appears in the Ministry's yearly Estimates.

In 1985 the Commission's revenues were \$615,859 and in 1986 they were \$672,282. On the other hand, its expenditures were \$1,224,823 and \$1,537,954 respectively. In 1985 the shortfall was \$609,564 while in 1986 it was \$865,672. Following the standard accounts classification the Commission's expenditures can be broken down as follows:

	<u>1986</u>	<u>1985</u>
Salaries and wages	\$1,111,626	\$893,102
Employee benefits	140,900	118,242
Transportation and Communication	34,315	30,973
Services	208,049	126,541
Supplies and Equipment	43,064	55,965
	<hr/>	<hr/>
TOTAL	\$1,537,954	\$1,224,823

There are a number of services provided by the Ministry of Financial Institutions not reflected in the above figures. These include services such as Administrative Services – Purchasing, Accommodations, Forms Design, Record Services; Human Resources; Legal Services; Internal Audit; Investigations; Planning and Budgeting; Policy and Planning; and Revenue Office.

The Pension Benefits Guarantee Fund as was previously stated is comprised of premiums paid by employees. In 1985 premium revenue came to \$2,203,072 and \$2,291,834 in 1986. Interest income was \$193,803 in 1985 and \$462,340 in 1986. Added to this were certain recoveries: \$17,324 in 1985 and \$187,052 in 1986. Total receipts were \$2,414,199 in 1985 and \$2,941,226 in 1986.

With respect to the disbursement of monies out of the Fund, in 1985 these totalled \$1,904,358 and \$87,289 in 1986. In 1985 the balance in the Fund was \$3,147,255 while in 1986 it was \$6,001,192.

ACCOUNTABILITY AND CONTROL

The Pension Commission of Ontario is designated as a regulatory agency within Schedule I by Management Board of Cabinet. Agencies within this schedule are characterized as follows: they are funded out of the Consolidated Revenue Fund or out of monies collected from the public by means of levies; they are able to adhere to all management and administrative directives established by the Management Board; they have their administrative-support services provided by the responsible ministry, unless the agency is of a sufficient size as to be able to provide its own support services in a more efficient and effective manner; and they can appoint staff under the Public Service Act. Moreover, agencies in this schedule require a Memorandum of Understanding with their parent ministry.

The present extant Memorandum was signed in 1983 with the Ministry of Consumer and Commercial Relations. A new Memorandum should be signed when either a new Minister or new Chairman is appointed.

The Memorandum defines the relationship between the Commission and the Ministry. The Minister is made responsible for presenting the Commission's estimates to the Legislature and for ensuring the Commission is informed of Ministry and Government policies and practices which have, or will have, an impact on the Commission.

For its part, the Commission is made responsible for regulating private pension plans in Ontario to ensure such plans are properly funded, safely invested and legally paid out; for carrying out the responsibilities embodied under Section 10 and Section 30 of the Act (the numbers here would not be applicable under the amended Act); for ensuring that appropriate action is taken to protect the

interest of the Pension Benefits Guarantee Fund and plan members when a pension is wound up; for ensuring that important matters relating to the Commission are brought to the attention of the Minister; and for ensuring through the Superintendent of Pensions that the Commission's staff are knowledgeable about, and adhere to, Ministry and Government financial and administrative policies and procedures.

With respect to financial arrangements, the Commission is required to prepare plans, objectives and an annual budget to cover its financial requirements for each fiscal year. The Ministry assists in the preparation of each plan, etc. Moreover, the Commission must abide by the financial policies of the government. If the Commission enters into any financial arrangements which could increase the Province's direct, indirect or contingent liabilities, or affect the financial, cash or debt management policies of the Province, the Commission must notify the Minister who will indicate whether subsequent approval of the Assistant Deputy Minister, Office of the Treasury, may be sought. The Commission has to maintain, with the assistance of the Ministry, records of all clients and the related receivables and payables of the Pension Benefits Guarantee Fund according to generally accepted accounting principles. The Ministry's Support Services Division assists the Commission's management of the Pension Benefits Guarantee Fund. All pension plan fee increases approved by the Commission must be in accordance with the Manual of Administration (now Guidelines and Directives).

The audit arrangements require the Commission's accounts be audited by the Provincial Auditor, and that the Commission is subject to comprehensive management and EDP audits by the Ministry's Internal Audit Branch.

The operating relationships require that the Commission report to the Minister through the Chairman. The Superintendent reports to the Commission on all policy matters, to the Deputy Minister on all program operating matters and can ask for support from the Executive Director, Support Services Division. The Lieutenant-Governor in Council must approve any reciprocal agreements entered into by the Commission with a Canadian association of pension commissions and with a pension commission or government of a designated province.

With respect to administrative relationship, the Memorandum stipulates that the Ministry's Support Services Division must provide the same level of support services as it does to any other Ministry program.

The Commission is subject to all personnel policies of Management Board of Cabinet and those of the Ministry. The Commission receives personnel support services solely from the Ministry. The Superintendent is appointed from the classified service of the civil service and the rest of the staff are appointed under the Public Service Act.

The Commission is required to provide timely information to the Minister that requires his or her attention, while the Superintendent is to provide timely information and advice to the Deputy Minister concerning matters affecting program operations. The Commission must also provide the Minister and Deputy Minister with a monthly management report; annual calendarizations; quarterly managing-by-results updates; quarterly performance variance reports; annual Ministry Planning Submission; annual report of the Commission for Ministry's annual report; and other requested reports.

RECOMMENDATIONS

The Pension Commission of Ontario is in a transition phase as a result of the amendments made to the Pension Benefits Act by Bill 170. The regulatory role of the Commission has been strengthened, particularly with respect to such matters as the proper registration of pension plans, their administration, and with respect to the monitoring of the financial solvency of plans.

The Commission expects that its workload will triple as a result of these changes to the Act. In response, the Commission will augment its staff complement from 55 to 68. At the same time, the Commission has undertaken a major reorganization of its administrative structure, mandated, in part, by the amendments to the Act, and, also, by the increased workload. Moreover, in order that the staff are better able to manage their workflow, the Commission has established an information technology plan, based on the appropriate use of computers. The Committee welcomes the Commission's efforts in improving its efficiency and effectiveness.

Your Committee, therefore, recommends that:

8. **The Pension Commission of Ontario undertake to implement its Information Technology Plan as quickly as possible.**

Amendments to the Pension Benefits Act also changed various provisions of the Act that affect all defined-benefit plans in Ontario, including new provisions dealing with two year vesting and locking-in, full funding of plans, new benefit provisions, including changed survivor benefits, non-discrimination by plans on the basis of sex, the inclusion of part-time employees in plans, the right of membership in plans after two years, and related matters.

These are significant changes that are of interest to those who, in Ontario, are covered by existing plans, or who are in the process of joining a plan. However, it is generally recognized that pension legislation and pension issues are complex and technical in nature. Recognizing this perception, the Committee believes that the Commission has a responsibility to publicize and communicate the implications of these changes to the Ontario public.

Your Committee, therefore, recommends that:

9. **The Pension Commission of Ontario publicize and communicate the implications of the amendments to the Pension Benefits Act.**

At the same time, the Committee believes that the Commission also has a role to play in encouraging the establishment of private pension plans in Ontario. At present only about one third of all Ontario workers are covered by a pension plan. The other two thirds must depend on Old Age Security and the Canada Pension Plan, combined with any personal savings they may have. Given present demographic trends, most people who will retire in the year 2000 or shortly thereafter, will do so without any benefits from a private pension plan. As a result, most of these retirees will probably not have sufficient income to maintain their present standard of living.

Under these circumstances, the Committee believes the Pension Commission, in cooperation with the Ministry of Financial Institutions, should devise a communications strategy that emphasizes the importance of private pension plans.

Your Committee, therefore, recommends that:

10. **The Pension Commission of Ontario, in cooperation with the Ministry of Financial Institutions, implement a public education plan that emphasizes the importance of private pension plans.**

Recently, the Massey farm implements manufacturing firm, in the course of its wind-up, revealed that it could have an unfunded pension plan liability as high as \$65 million. Clearly the workers involved will be adversely affected, and some or all may not receive the pensions they anticipated or were promised.

The Pension Benefits Guarantee Fund was created for such situations. However, the expectation was that the Fund would be used by small businesses that found themselves with unfounded liabilities on the wind-up of the business. Consequently, the Fund has only about \$6.5 million. It will not be in a position to help the Massey workers.

In the opinion of the Committee, this situation raises a number of issues. It may be that the Guaranteed Pension Fund is not adequately financed to deal with pension plans that have large unfunded liabilities, and, therefore, a review of how the Fund is financed and administered may be in order.

Your Committee, therefore, recommends that:

11. **The Pension Commission of Ontario undertake a review of the Pension Benefits Guarantee Fund to determine what role the Fund should play in the future.**

CIVIL SERVICE COMMISSION

BACKGROUND

The Civil Service Commission is established by the Public Service Act with responsibility for the recruitment, classification and training of the staff of the Government of Ontario. Since its enactment in 1918, the Act has been amended a number of times with the first major change occurring in 1947 when the Commission was enlarged to three members. In 1962, the Robarts' Government broadened the scope of the Commission's mandate and gave it decisive authority over all personnel matters. At the same time, the Government created a Department of the Civil Service to act as the executive arm of the Commission. In 1972, as a result of the recommendations of the Committee on Government Productivity, the Department of the Civil Service was abolished and its functions returned to the Commission. The Public Service Act has remained largely unchanged since then.

However, in 1985 the then Chairman of Management Board initiated a study which included, among other things, an examination of the Ontario Government's human resources management policies and practices, and an examination of the responsibility of the Civil Service Commission to preserve and protect the merit principle. This study was undertaken by W.P. Moher of Imperial Oil Limited.

THE MOHER REPORT

The Moher report, released in March of 1986, identified a number of issues relating to human resource management within the Ontario Public Service, including the role of the Civil Service Commission. Its observations and findings with respect to the Commission were as follows.

Organization

The following concerns were expressed regarding the structure of the Commission:

- Some believe that the Commission should report directly to the Legislature rather than to the Government through a Minister (in the Federal Government, the Chairman of the Public Service Commission reports directly to Parliament through the Speaker). The former reporting relationship would better support the Commission's responsibility to protect and preserve the merit principle in the OPS.
- In private sector organizations, it is rare to find the central human resources policy operation reporting to or through the treasurer/comptroller. The Commission's reporting relationship to the Chairman of Management Board and through the Board itself is, in effect, this type of arrangement.
- Under the existing organization structure, executive classification is the responsibility of Commission staff and executive position creation/adjustment is assigned to staff of the Management Board Secretariat. This splitting of related responsibilities appears to be arbitrary, and it may have the effect of interfering with the best management of executive resources.
- Some individuals object to the "Commission" designation, because they believe that the Government's corporate personnel policy office should be part of a Ministry structure rather than a separate entity.

Staffing issues are summarized as follows:

- Approximately 35% of the Commission's staff are involved in functions that are not central to the Commission's mandate.
- It is generally agreed that the labour relations operations of the Commission are understaffed. A related concern is that managers' understanding of collective agreement issues and changes could be improved with better communications concerning labour relations.
- There is little movement of personnel staff to positions outside the personnel community, partly because these staff often lack the line experience sought in candidates for most Ministry jobs. Although long employment in one organization and one functional area, builds up a bank of experience which can become a valuable asset to the organization, it is also true that the injection of new staff is a stimulus to innovation and improvement. The Commission could benefit from more frequent turnover among its staff.
- Ministry managers expressed a desire to have access to specialists who can advise them on structuring their organization and staffing special projects. This capability is currently not provided by the Commission.
- Within the Civil Service Commission, commissioners generally do not derive much satisfaction from their work. They deal mainly with routine matters, especially severance arrangements, which are governed by the provision of the Public Service Act.

Orientation

The Commission is not universally perceived by managers to be supportive of management efforts to make better use of human resources. Its orientation has leaned toward the "control" end of the "service-control spectrum."

- Managers would like to be consulted on policy development for human resource management. They also need to be kept informed of matters under consideration and decisions taken.
- Greater flexibility is required in applying and modifying classification standards.
- Strong initiatives are called for to deal with a number of key issues affecting Public Service employees — for example, smoking in the workplace, day care, equal pay, occupational health and safety, and technological change. Although the importance of these issues is generally acknowledged, the Commission has not provided the leadership expected of it in dealing with the concerns of managers and other employees.

Policy

The single greatest concern of line managers about human resource policies set by the Commission is that there is little flexibility to deal effectively with people. Specifically, there is a need to provide increased opportunities to reward excellence, develop potential and confront problem performance in a constructive and effective way.

Other concerns include:

- a perceived preoccupation with financial considerations in the formulation of human resource policies; and
- the predominance of the arbitration/grievance process in focusing the direction of Commission policies.

Strategic Priorities and Planning

During the past fifteen months, staff of the Commission have completed a strategic planning exercise. This exercise has produced some valuable options for future management of human resources. It has not, apparently, addressed certain concerns identified by Ministry managers:

- The Commission generally has not communicated to managers the strategic direction and leadership it is providing in human resource management. A case in point is the strategic planning exercise referred to above: by and large, Ministries have been unaware of this effort, and managers have not been consulted for their views on needs and opportunities.
- The Commission is perceived to be not sufficiently responsive to Ministry requests and priorities. The Commission's operational plans are viewed as being divorced from managers' main concerns.

- Some interviewees suggest that the Commission is preoccupied with its role in arbitration and grievance management, at the cost of strategic policy and program development.

Conclusion

The present framework for human resource management is not well designed to meet the needs of the Public Service. Although the Civil Service Commission is effective in some areas of responsibility, priorities identified by Ministries are often not addressed. It appears that a new structure is required to provide direction for improved use of human resources in the OPS.

The Moher report went on to propose that the organizational design of human resource management be changed. The principles were related to the Civil Service Commission. The Government must ensure that the merit principle is applied consistently and effectively and the Civil Service Commission must be separate and distinct from the staff group responsible for policy development and coordination.

More specifically, the report proposed that the Civil Service Commission be organized as a separate entity from Management Board, though reporting to the Government through a Minister, in this case Chairman of Management Board. The Commission would have an independent role in monitoring and reporting on compliance with the merit principle and the provisions of the Public Service Act.

At the same time, the Human Resources Secretariat would be established within Management Board and would assume responsibility for most existing staff of the Commission except those involved in ancillary services. The Secretariat would provide corporate leadership in policy formulation, strategic planning and development of employment conditions and practices. These roles were formerly assigned to the Commission.

As envisaged by the Moher report, the Civil Service Commission would have the following structure and responsibilities:

Reports to	The Minister designated by the Lieutenant-Governor in Council
Support Staff	Human Resources Secretariat
Members	The Commission shall consist of not fewer than three persons appointed by the Lieutenant-Governor in Council. The following membership is proposed: one Deputy Minister who shall act as Chairman; four assistant Deputy Ministers; two external appointments.
Responsibilities	The Commission will ensure responsible administration of the <u>Public Service Act</u> . In particular, it will monitor and report on the performance of the Government as employer and retain responsibility for the merit principle. The Commission will delegate to Deputy Ministers, to the extent possible under the <u>Public Service Act</u> , its policy, administrative and human resource management responsibilities.

THE CIVIL SERVICE COMMISSION SINCE THE MOHER REPORT

On October 14, 1986 a Memorandum of Agreement was signed by the Management Board of Cabinet, the Executive Development Committee, the Human Resources Secretariat and the Civil Service Commission. The agreement set out that the Human Resources Secretariat would "carry out on behalf of the Commission the powers, duties and functions of the Commission but where by the Act [Public Service Act] or its regulations the Commission's approval, or the like, is required for that carrying out, it shall obtain such approval." However, the Commission was to continue to be responsible for the administration of the Act; the merit principle; monitoring and reporting on the performance of the Crown in Right of Ontario as an employer; and, contributing to the development and promotion of corporate values in respect of matters such as the government's philosophy for human resource management, and political activity, conflict of interest rules and ethical conduct as they relate to Crown employees.

In practical terms, the Human Resources Secretariat now performs most of the duties and responsibilities of the Commission. These duties include: day to day administration of government policy in matters of personnel administration; and, the formulation and development of policy respecting employee benefits, salary ranges and pay policy, labour management relations, the negotiation of collective agreements, etc.

As yet , these changes are not reflected in amendments to the Public Service Act. Thus, only those duties that can be delegated by law have been transferred to the Commission.

Currently, there are four members of the Commission including the Chairman. All are career civil servants.

RECOMMENDATIONS

As a result of the discussions with the representatives of the Civil Service Commission, the Committee learned that the future role and function of the Commission is under review by Management Board of Cabinet. With the Commission's operational and administrative functions and responsibilities having been transferred to the Human Resources Secretariat, the Commission, now consisting almost solely of the Commissioners, has retained only those responsibilities assigned to it by the Public Service Act, principally that of monitoring the merit principle. Management Board is in the process of amending the Act to reflect the changes that have been put in place administratively.

In its discussions, the Committee gave careful consideration to a variety of matters that touched on the future role of the Commission. The Committee was not clear how the Civil Service Commission would monitor the merit principle when all its support staff had been transferred to the Human Resources Secretariat. Is the merit principle so well entrenched in the Government of Ontario that a separate agency is not necessary to monitor its implementation? In discussing these issues, the Committee came to the conclusion that the Public Service Act could be amended to provide that the Human Resources Secretariat be made responsible for the merit principle.

At the same time, the Committee reviewed the question of how various groups, such as native people, women, francophones, visible minorities and the disabled, are able to enter and be promoted within the Ontario civil service. At issue was whether decision-makers were sensitive to how such groups should be treated and if policies existed that encouraged the entry of these groups into the civil service. The Committee was assured by various officials, including the Minister of Citizenship and the Deputy Minister of the Human Resources Secretariat of Management Board of Cabinet, that such policies did in fact exist within government and that the Human Resources Secretariat was actively studying some of the issues raised by the Committee.

From these discussions, the Committee has come to the conclusion that Management Board of Cabinet should give consideration to amending the Public Service Act so that all the duties and responsibilities of the Civil Service Commission, including monitoring the merit principle, be transferred to the Human Resources Secretariat.

Your Committee, therefore, recommends that:

12. Management Board of Cabinet consider amending the Public Service Act and transferring all the duties and responsibilities of the Civil Service Commission to the Human Resources Secretariat.

THE ONTARIO FOOD TERMINAL BOARD

BACKGROUND

The Ontario Food Terminal Act was first passed in 1946 creating the Board as the agency of the Ontario Government responsible for establishing a central wholesale market for fruits and vegetables. The economic and social purpose was the need to provide one central market that would ensure a measure of order and discipline. The fact that the Government of Ontario established the market reflected a lack of interest by the private sector. The Act has not been changed since first passed in 1946. The facility was constructed and occupied in 1954.

OBJECTS AND POWERS OF THE BOARD

The Board's objects under the Act are to acquire, construct, equip and operate a wholesale fruit and produce market in the Municipality of Metropolitan Toronto or the Regional Municipality of York, to be known as the Ontario Food Terminal, and to acquire and operate such facilities for the transportation and handling of fruit and produce, and to do other things in order to carry out its operation.

In addition, the Board has the following overall objectives:

- to try and ensure that the market operates efficiently in order that high quality produce can be provided to Ontario consumers at competitive rates.
- to provide a market place for Ontario growers to sell their produce directly to the retail trade.
- to foster, through controlled buying hours and regulated shipping policies, a competitive market place where buyers and sellers can freely negotiate prices and terms of sale.
- to maintain a good working relationship with the tenants and buyers.
- to ensure that the market is properly maintained so that Ontario retailers and institutions will continue to use the market as a major source of supply for fresh produce.
- to ensure that the Board continues to achieve positive operating results through careful budgeting and the control of expenditures.

The Board has the power to borrow money and to issue securities. It can rent space in the Terminal to such persons and upon such terms as the Board considers proper and can enter into agreements. The Treasurer can be authorized by the Lieutenant-Governor in Council to guarantee the payment of any securities, the repayment of any advances made by banks and the payment of any other indebtedness of the Board.

Perhaps the Board's most important power is that of approving the creation of any other wholesale market for fruit and produce. This power extends to the Municipality of Metropolitan Toronto, the Regional Municipality of York or those parts of the Regional Municipality of Peel, that, on 31 December 1973 composed the County of York. Where the Board refuses to grant approval, the applicant can appeal the decision to the Minister of Agriculture and Food whose decision is final. Under this provision, the Board has the power to create a monopoly.

The Board also has power to make regulations subject to the approval of the Lieutenant-Governor in Council, and to make rules with respect to certain internal matters.

STRUCTURE AND ORGANIZATION

The Ontario Food Terminal Board is established as a corporate entity consisting of no more than seven members, one of whom is appointed Chairman and another Vice-chairman. The Chairman receives a per diem of \$151; the Vice-chairman \$139 and other members of the Board receive \$108. In 1987 the Board met eight times.

The Board is authorized, subject to the approval of the Lieutenant-Governor in Council, to appoint a manager and such officers as may be prescribed by the regulations. Regulation 703 (O.R. 1980) creates the positions of Secretary of the Board and Treasurer of the Board. One individual can occupy both positions.

The manager's responsibilities include the enforcement of the Act and regulations and the rules made by the Board with respect to the operation of the Terminal. As well, the manager is required to report to the Board any

alleged violations of the Act and regulations as well as any rules of the Board, any accidents, changes to the tenancies at the Terminal, and any other matters of interest to the Board.

The Secretary is required to keep minutes of the Board, conduct correspondence, keep a record of business transactions, assist the Chairman and Vice-chairman, and carry out other duties assigned by the Board. The Treasurer receives all money paid to the Board and deposits it in a chartered bank or in a branch of the Province of Ontario Savings Office, keeps the securities of the Board in safe custody, keeps proper books of account, and prepares the annual financial statement of the Board. The Treasurer is required to be bonded, the cost of which is paid by the Board.

The manager of the Board can appoint staff subject to the approval of the Board. At present there are four office staff and 27 other employees, including police, maintenance and sanitation staff.

OPERATIONS

The Ontario Food Terminal on the Queensway in Etobicoke is the largest wholesale fruit and produce market in the world. The Terminal is situated on a 42 acre site and comprises an U-shaped building containing enclosed indoor stalls and an adjacent building on five acres that encloses a farmer's market. The former building is where wholesalers are located dealing primarily in imported produce. These indoor stalls are leased by some 28 companies from the Board. Leases can run for indeterminate periods of time.

The farmer's market building contains some 430 stalls rented by farmers for fixed periods of time, a year, six months, or three months. The Board also has a small railway yard on site for produce brought from longer distances.

In addition to the stalls, the Board has 234 office spaces leased to various companies and government agencies.

The Terminal opens at 6:30 each morning and closes at 2 p.m.

FINANCES AND BUDGET

The Board is created as a financially self-sustaining agency. It has the power to rent space and enter into other arrangements it deems advisable. Moreover, the Board is given the power to borrow money and to issue securities, and where such securities are issues, the Lieutenant-Governor in Council can authorize the Treasurer to guarantee the payment of any securities issued by the Board, the payment of any advances made by banks to the Board and the payment of any other indebtedness by the Board.

The money received by the Board must be used for operating expenses and the payment of indebtedness, or placed in a sinking fund established by the Treasurer for the repayment of securities guaranteed by the Treasurer and for the retirement of any other indebtedness of the Board. All surplus money is to be used for reducing the cost of operating the Terminal, reducing fees, rents or other charges or for setting up reserve funds.

In 1987, the Board's revenue totalled \$3,935,641 as compared to \$3,622,242 in 1986, and \$3,337,014 in 1985. The principal source of this revenue comes from the rental of stalls, office space and the like. In 1987, this revenue totalled \$2,528,595. Cold storage fees were \$813,654 in 1987 and \$390,190 in 1986. This substantial increase was due to the additional charges that were laid as a result of the renovations to the cold storage area. Entrance fees provided some \$439,119. Additional revenue came from recovered realty taxes, \$66,746, and service charges of \$19,208; other income and interest of \$720 brought the overall figure to \$3,935,641.

The Board's expenses for 1987 and 1986 are as follows: \$3,548,450 and \$3,252,481 respectively.

Operating income for 1987 was \$398,191 and \$369,761 in 1986.

Prior to 1985, the Board experienced several years when it had an operating loss. These losses were the result of increasing expenses related to the operation of the wholesale warehouses exceeding the fixed rental revenues received from these leaseholders. The Board in 1985 entered into negotiations with the leaseholders with the result that in 1986 the Board charged as rent an

amount equal to 100 percent of the costs to the Board of these warehouses. Since 1985 the Board's revenues have been sufficient to generate operating income.

While the Board has been able to generate sufficient revenue to cover its operating expenditures, more problematic has been its ability to pay for its capital outlays with respect to various upgrading projects. In the early 1980s it received some \$2 million in grants for capital improvement from BILD, and, as well, it issued \$5 million in debentures, and has resorted to the use of demand loans to finance various capital projects. In 1987, these projects included a new drainage system; repaving; tractor for snow and waste removal; a fork lift truck; railway siding and track improvements; and improvements to the Buyer's Court.

ACCOUNTABILITY AND CONTROL

The Ontario Food Terminal Board is a Schedule II operational agency, or more commonly a Crown corporation. As a Schedule II agency, the Board operates at arm's length from the government and is self-financing. Moreover, it is required to have a Memorandum of Understanding with the Ministry of Agriculture and Food defining the relationship between the two bodies.

The Memorandum requires that the Board not dispose of or acquire real property without the approval of the Minister. In addition, the Minister can request the Board to alter its operations or extend its services where the Minister is of the opinion that it would be in the public interest. The Manager is given the authority to purchase routine equipment, supplies and services and to appoint and set the salaries of the Board employees.

With respect to financial arrangements, the Board is required to be self-sustaining, so far as possible, meeting its operating and maintenance expenses from the revenues it derives from the rentals and other charges. The Board is not expected to generate a profit.

The Board is also required to file with the Minister a copy of every budget forecast prepared by the Board, and the Board can take no action that affects any loan made to the Board by Government or guaranteed by Government without the express approval of the Minister. Prior approval of the Assistant

Deputy Minister, Office of the Treasury, is required when the Board proposes entering into any financial arrangement which would increase the Province's direct, indirect or contingent liabilities, or affect the financial, cash or debt management policies of the Province.

In respect of administrative matters, the Memorandum asks that the Board adhere to the spirit and intent of the Manual of Administration of the Government of Ontario. Moreover, the Board is required to file with the Minister for tabling in the Legislature the Annual Financial Report and the report will be audited by the Provincial Auditor. The Minister can appoint an internal auditor from the Ministry of Agriculture and Food to audit the Board's Annual Financial Report.

RECOMMENDATIONS

The Committee's principal concern centered on the Ontario Food Terminal Board's leasing arrangements. The matter was first raised by the Committee's predecessor committee in its 1979 report. In that report, it was pointed out that the wholesale stalls "were leased to wholesalers for, in effect, perpetuity, at a fixed rate of rent." Further, the report stated that the present lessee can assign his lease for a "substantial sum of money, although the new lessee continues to pay the same fixed rent." The predecessor committee believed that the problem stemmed from the fact that the Board is an effective monopoly, as provided under section 12 of the Ontario Food Terminal Act, which gives the Board the power to approve all proposals for the creation of a wholesale market for fruit and produce.

The predecessor committee recommended that section 12 of the Act be repealed, and that the Terminal's leases be altered to eliminate the effective granting of perpetuity and to place restrictions on subleasing and the assignment of leases, and that a limit be placed on a number of units any one wholesale interest can control.

When representatives of the Ontario Food Terminal Board appeared before the Committee, they indicated that the Board had not taken any action on the predecessor committee's recommendations. The situation with respect to the Terminal's leasing arrangements can be summarized as follows. When the original leases were signed in 1954, when the Terminal first opened, they

included a provision that each lease would continue for 30 years, with the right of renewal after each 30 year period. In other words, the leaseholder could hold the lease in perpetuity, if the business was not sold. Not only was this right of perpetual renewal included in the original lease contract, but the rent was also fixed. At the same time, the lease contract included a provision which permitted the leaseholder to assign and sublease. Under these circumstances, some leaseholders could enjoy "windfall profits" if they subleased their leaseholds.

In 1983, when the first 30 year leases were to come due, the Board negotiated an increase in the rent the leaseholders paid to the Board. The Board sought this increased rent since the original rent was not sufficient to cover the Board's operating deficits. It should be pointed out that the leaseholders voluntarily submitted to increased rents, since the original leases of 1954 provided a fixed rent. During these negotiations, the Board did undertake some discussion as to whether the leaseholders were prepared to change the assignment and perpetuity clauses in the leases. The leaseholders, according to the Board's representatives, were not prepared to change these clauses.

The Board's position with respect to assignment is that such a clause is an "absolute necessity," since assignment is a normal business practice, permitting a leaseholder to sell his company at a favourable market price, and ensuring that the new owner and leaseholder will continue the operation of the business.

With respect to perpetuity, the Board believes that the present leaseholders will not agree to any change that would take away this feature of their leases. If a negotiated change is not possible, the Board is of the opinion that there are only two options. First, negotiate with the tenant some form of compensation for a decrease in the monetary value of the lease, or second, the government could enact legislation to amend the leases. The legislation could include provision for compensation or no compensation. If the latter, the legislation should include a provision indemnifying the Board of Directors and the management of the Terminal against possible litigation.

The Board did indicate to the Committee that it was prepared to do something about subletting, principally, to eliminate subletting in perpetuity. The Board of Directors submitted the above recommendations to the Ministry of Agriculture and Food in October of 1987.

After giving due consideration to the arguments advanced by the representatives of the Ontario Food Terminal Board with respect to the issues raised above, the Committee believes strongly that the Board should commence negotiations with current leaseholders with a view to eliminating the "perpetuity" provision included in the original leases. The Committee views the "perpetuity" provision as iniquitous: it creates an enormous commercial advantage for those who hold the original leases as opposed to any potential leaseholders. Moreover, this commercial advantage is exercised at the expense of the Food Terminal Board, a public entity, and, therefore, ultimately at the expense of the Ontario taxpayer.

Your Committee, therefore recommends that:

- 13. The Ontario Food Terminal Board enter into negotiations with the current leaseholders in order to eliminate the leases' "perpetuity" provisions.**

The Committee also strongly recommends that the Board exercise its discretion by refusing to assign leases when a particular stall is sold, on the grounds that excessive profits will be made by private interests on publicly owned property. The Committee has learned that a recent assignment cost \$1.3 million dollars. This freeze with respect to the assignment of leases should continue until such time as the issues surrounding the leases are settled. At the same time, when a particular business is sold, any sublessee should have first right of refusal with respect to the assignment of the lease.

Your Committee, therefore, recommends that:

- 14. The Ontario Food Terminal Board place a "freeze" on the assignment of leases and the subletting of leases, and that sublessees have first right of refusal when a lease is assigned.**

More generally, the Committee is of the strong view that in the future, whether a lease is assigned or when a lease has come due, the Board in each case should have the right to determine how a lease is to be assigned or subleased. This determination should always be exercised by the Board on the basis of public interest.

Your Committee, therefore, recommends that:

15. The Ontario Food Terminal Board convey to the leaseholders that in the future the Board will seek to exercise its right to refuse the assignment and subletting if such assignment or subletting is not in the public interest.

The Committee also believes that the Ontario Food Terminal Board should limit the number of leases held by a given business to a maximum of three. Given the limited number of stalls that can be leased, any business which acquires other businesses, along with the leases, will have a dominant impact on the affairs of the Board and with respect to the commercial activities at the Terminal.

The Board should thoroughly investigate every prospective buyer of a business who will operate a stall at the Terminal, to determine not only the integrity of the new buyer, but whether that new buyer is financially or otherwise connected with an existing business at the Terminal. In short, the Committee believes the Board should lift the "corporate veil", in order to ascertain all financial and/or ownership relationships.

Your Committee, therefore, recommends that:

16. The Ontario Food Terminal Board undertake a complete investigation of the background of any new buyer of a business operating at the Terminal, in order to be able to limit the number of leases that one business can own to three.

During the discussions with the Committee, another option was proposed as a solution to the problem of the perpetual leaseholders, namely that of building more wholesale units, thereby allowing the 33 parties on a waiting list to have their own leaseholds. The Board proposed eight to ten new units, and the Ministry approved of the idea in November 1987. It is now up to the Board to start preparations for the construction of those new units.

Your Committee, therefore, recommends that:

17. The Ontario Food Terminal Board begin construction of its planned "C" units as quickly as possible.

It is the Committee's view that when these new units, referred to as "C" units, are built, they should be made available to new leaseholders only, and that current sub-leases be given priority. Moreover, the Committee believes that the selection process should be based on the date the application is received by the Board. This process should be formalized and made known to all potential tenants.

With respect to the leases themselves, they should not contain any clause that would provide the leaseholder with a right of perpetual renewal, nor should they prevent the Ontario Food Terminal Board from exercising its discretion in refusing to sublet or assign a lease. However, the new leases should include provisions that permit the existing leaseholder to include fair compensation for improvements. At the same time, there should be no possibility of the existing shareholder charging "key money" when the lease is re-leased or assigned. The sublet provision should also provide for a specified period of time – possibly five years – that the lease can be held.

Your Committee, therefore, recommends that:

18. The Ontario Food Terminal Board write leases for the new "C" units that provide for fixed terms rather than for perpetuity; and that when any lease comes due the Board retain power to re-lease.

Finally, the Committee has reached the conclusion that the Ontario Food Terminal Board is not in a financial position to build the new "C" units without some financial support from the Ministry of Agriculture and Food. Some form of assistance will be required by the Board to complete the construction of these new units.

Your Committee, therefore, recommends that:

19. The Ministry of Agriculture and Food provide financial support to the Board in building the new "C" units.

The other matter raised by the predecessor committee was the power of the Board under section 12 of the Ontario Food Terminal Act to approve the creation of other wholesale produce markets. During the Committee's questioning, the representatives of the Board explained that the claim that this power gives the Terminal a monopoly is not correct, or is at least misunderstood. Section 12 gives the Board approval powers with respect to new wholesale markets only in York and Peel counties. Outside this area, the Board has no authority to make any recommendation or decision. Moreover, within the designated area, comprising York and Peel counties, the Board's decision is not final, rather the Minister of Agriculture and Food is given the power to make the final determination.

It was the Board's recommendation to the Ministry of Agriculture and Food that this power under section 12 be retained by the Board, on the argument that competing wholesale markets would not be economically viable.

The Committee is of the view that Section 12 of the Ontario Food Terminal Board Act should be repealed, since it serves no useful purpose. At the same time, while the Committee has not recommended the privatization of the Terminal, it does believe that the Ministry of Agriculture and Food should not rule out this option if the right circumstances occur. At the very least the Ministry should study this option.

Your Committee, therefore, recommends that:

20. The Ministry of Agriculture and Food amend the Ontario Food Terminal Board Act by striking out Section 12.

In 1960, the Board bought land in Vaughan Township that could have been used to build a new terminal. However, when in 1980 the Board discussed the possibility of moving to this new location, three lessees out of 28 rejected the idea. The land, originally bought for \$2 million, was sold for \$8 million. Of that amount \$7,100,000 was used to repay a bank loan and \$900,000 was used by the Terminal for redevelopment.

The representatives of the Board indicated that locating at a new site could not have solved the perpetuity problem, since lessees would have had the right to transfer their leases to the new location.

The Committee makes no recommendation with respect to the Vaughan land sale, though it does make the observation that many of the Board's difficulties stem from this inopportune act.

The question of whether lessees of the Terminal place themselves in a conflict of interest when they serve on the Board of Directors was raised by the Committee. It was explained that the Board's Act is silent on this question, though common law principles of conflict of interest would apply to Board members. In other words, Board members would have to declare their conflict of interest if a matter was discussed at a Board meeting that affected their personal interest.

In considering the composition of the Ontario Food Terminal Board, the Committee has come to the conclusion that the public interest would be served if the Board were to include a consumer representative to balance the other Board members who have a direct or indirect interest in produce business and the activities of the Terminal. Moreover, in order that the Ministry of Agriculture and Food should be fully apprised of the work of this Crown agency, a representative of the Ministry of Agriculture and Food should be appointed as an ex officio member of the Board. At the same time, the Committee believes that the Ministry's policy of appointing a buyer's representative should be continued on a permanent basis.

Your Committee, therefore, recommends that:

21. The Ministry of Agriculture and Food appoint a buyer's representative on a continuing basis; and that a consumer representative and a representative of the Minister also be considered for appointment to the Ontario Food Terminal Board.

The Committee has also considered whether there should be any appointees who have a direct interest in the Food Terminal. It may be more appropriate for all members of the Board to be appointed from the public at large. The interests of the leaseholders and producers could be conveyed to the Board through several advisory committees representing the different interests that buy and sell through the Terminal. The use of advisory committees would ensure that all interests were given due opportunity to put their case before the board.

Your Committee, therefore, recommends that:

22. The Ministry give consideration to appointing members of the Board from the public at large.

The Committee also discussed various issues relating to the farmers' market. One issue centered on how leases for stalls are arranged. The representatives of the Board indicated that there are two types of leases: an annual lease and a semi-annual lease. As well, the Board permits daily rental of stalls, if the person who holds the lease is not using his or her stall. Following on this practice, the Board is considering the implementation of a seasonal pass for the farmers' market which would permit farmers to use such stalls that are not being used on any single day. The Committee also believes that section 8 of the farmers' leases should be changed to permit two farmers to share a stall thereby ensuring greater flexibility for those farmers who may not want to use the stall continuously.

Your Committee, therefore, recommends that:

23. The Ontario Food Terminal Board change section 8 of the farmers' leases to permit farmers to share stalls.

Another issue discussed was the inability of farmers who use the farmers' market to enter the Terminal because of the large trucks lining up to enter the Board's site. The Board indicated that in the summer of 1988 it will experiment with a new gate structure that should alleviate the problem. At the same time, the Committee is of the view that the Board should consider opening the farmers' market an hour or so earlier than the wholesale market to allow for a more orderly flow of traffic into the Terminal.

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Your Committee, therefore, recommends that:

- 24. The Ontario Food Terminal Board should open the farmers' market half an hour or one hour earlier to allow for orderly flow of traffic into the Terminal.**

The Committee also discussed with the Board the need for a master plan for development, as well as a market feasibility study and function audit.

The Committee also wishes that the Ontario Food Terminal Board consider creating variable term leases to assist those producers whose crops come on the market at various times during the growing season. Clearly some growers have no use for a stall when their produce is out of season.

Your Committee, therefore, recommends that:

- 25. The Ontario Food Terminal Board initiate variable term leases for the farmers' market.**

Finally, the Committee believes that the recommendations it has made to the Ontario Food Terminal Board and the Ministry of Agriculture and Food raise serious issues of public policy. It is evident that the Committee has taken a strong position in wanting these issues resolved. For this reason, it makes the following recommendation to the House.

Your Committee, therefore, recommends that:

- 26. The Standing Committee on Government Agencies review the Ontario Food Terminal Board one year from the time that this report is tabled in the House.**

III. SUMMARY OF RECOMMENDATIONS

Your Committee, therefore, recommends that:

1. The Ontario Securities Commission adopt a proactive policy of communicating its regulatory role to the general public.
2. The Ontario Securities Commission undertake to streamline and prioritize its investigations of alleged breaches of the Securities Act.
3. The Ontario Securities Commission undertake a comprehensive review and study of its enforcement and audit procedures with a view to creating an "early warning system" for financially troubled securities firms.
4. The Ontario Securities Commission, in cooperation with the Toronto Stock Exchange, the Investment Dealers Association and other Canadian regulatory agencies, undertake to review the adequacy of the National Contingency Fund.
5. Ontario Securities Commission, in cooperation with the Toronto Stock Exchange and the Investment Dealers' Association (Ontario), undertake a comprehensive review of the effectiveness of self-regulating organizations within the context of the regulatory framework provided by the Securities Act.
6. The Ministry of Financial Institutions in conjunction with the Ontario Securities Commission undertake a comprehensive review of the Securities Act and related legislation.
7. The Ministry of Financial Institutions ask the Provincial Auditor to undertake an efficiency audit with respect to the Ontario Securities Commission.
8. The Pension Commission of Ontario undertake to implement its Information Technology Plan as quickly as possible.
9. The Pension Commission of Ontario publicize and communicate the implications of the amendments to the Pension Benefits Act.

10. The Pension Commission of Ontario, in cooperation with the Ministry of Financial Institutions, implement a public education plan that emphasizes the importance of private pension plans.
11. The Pension Commission of Ontario undertake a review of the Benefits Guarantee Pension Fund to determine what role the Fund should play in the future.
12. Management Board of Cabinet consider amending the Public Service Act and transferring all the duties and responsibilities of the Civil Service Commission to the Human Resources Secretariat.
13. The Ontario Food Terminal Board enter into negotiations with the current leaseholders in order to eliminate the leases "perpetuity" provisions.
14. The Ontario Food Terminal Board place a "freeze" on the assignment of leases and the subletting of leases, and that sublessees have first right of refusal when a lease is assigned.
15. The Ontario Food Terminal Board convey to the leaseholders that in the future the Board will seek to exercise its right to refuse the assignment and subletting if such assignment or subletting is not in the public interest.
16. The Ontario Food Terminal Board undertake a complete investigation of the background of any new buyer of a business operating at the Terminal, in order to be able to limit the number of leases that one business can own to three.
17. The Ontario Food Terminal Board begin construction of its planned "C" units as quickly as possible.
18. The Ontario Food Terminal Board write leases for the new "C" units that provide for fixed terms rather than for perpetuity; and that when any lease comes due the Board retain power to re-lease.
19. The Ministry of Agriculture and Food provide financial support to the Board in building the new "C" units.

20. The Ministry of Agriculture and Food amend the Ontario Food Terminal Board Act by striking out Section 12.
21. The Ministry of Agriculture and Food appoint a buyer's representative on a continuing basis; and that a consumer representative and a representative of the Minister also be considered for appointment to the Ontario Food Terminal Board.
22. The Ministry give consideration to appointing members of the Board from the public at large.
23. The Ontario Food Terminal Board change section 8 of the farmers' leases to permit farmers to share stalls.
24. The Ontario Food Terminal Board should open the farmers' market half an hour or one hour earlier to allow for orderly flow of traffic into the Terminal.
25. The Ontario Food Terminal Board initiate variable term leases for the farmers' market.
26. The Standing Committee on Government Agencies review the Ontario Food Terminal Board one year from the time that this report is tabled in the House.

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Terms of Reference

Standing Order 90 (f)

Standing Committee on Government Agencies which is empowered to review and report to the House its observations, opinions and recommendations on the operation of all agencies, boards and commissions to which the Lieutenant Governor in Council makes some or all of the appointments, and all corporations to which the Crown in right of Ontario is a majority shareholder, such reviews to be made with a view to reducing possible redundancy and overlapping, improving the accountability of agencies, rationalizing the functions of the agencies, identifying those agencies or parts of agencies which could be subject to sunset provisions, and revising the mandates and roles of agencies;

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Schedule of Hearings

March - June 1988

Tuesday, 8 March 1988

10:00 a.m. Briefing by Research Officer
and
2:00 p.m. Re: The Ontario Securities Commission

From the Ontario Securities Commission:

Stanley M. Beck, Q.C.
Chairman

Charles Salter
Vice-Chairman

Ermanno Pascutto
Director
Director's Office

Dominic Vaccari
Deputy Director
Administration

Elizabeth Nash
Executive Assistant
to the Director

Wednesday, 9 March 1988

10:00 a.m. Re: The Ontario Securities Commission
and
2:00 p.m. From the Ontario Securities Commission:

Stanley M. Beck, Q.C.
Chairman

Charles Salter
Vice-Chairman

Ermanno Pascutto
Director
Director's Office

Dominic Vaccari
Deputy Director
Administration

Elizabeth Nash
Executive Assistant
to the Director

Thursday, 10 March 1988

10:00 a.m.
and
2:00 p.m.

Re: The Pension Commission of Ontario
From the Pension Commission of Ontario:

John Kruger
Chairman

Lynne Gordon
Vice-Chairman

Robert Hawkes
Superintendent

Monday, 28 March 1988

10:00 a.m.
and
2:00 p.m.

Re: The Civil Service Commission
From the Civil Service Commission:

Gerard Raymond
Chairman

Arthur Daniels
Commissioner and
Assistant Deputy Minister
Registration Division
Ministry of Consumer
and Commercial Relations

Shirley Mancino
Director of Research

Allen Doppelt
Solicitor

Cynthia Bedborough
Executive Officer/Secretary
to the Commission

Tuesday, 29 March 1988

7:30 a.m. Tour of The Ontario Food Terminal

10:30 a.m. Re: The Ontario Food Terminal Board
and
2:00 p.m. From the Ontario Food Terminal Board:

Allan Collins
Chairman

Joseph Melara
Vice-Chairman

Bill Carsley
General Manager

I. Bruce Nicholas
Secretary-Treasurer

Rupert Righton
Legal Counsel
with Shibley Righton
and McCutcheon

John Bell
Legal Counsel
with Shibley Righton
and McCutcheon

Wednesday, 30 March 1988

10:00 a.m. Re: The Ontario Food Terminal Board
and
2:00 p.m. From the Ontario Food Terminal Board:

Allan Collins
Chairman

Joseph Melara
Vice-Chairman

Bill Carsley
General Manager

I. Bruce Nicholas
Secretary-Treasurer

Rupert F. Righton
Legal Counsel
with Shibley Righton
and McCutcheon

John Bell
Legal Counsel
with Shibley Righton
and McCutcheon

Wednesday, 13 April 1988

10:00 a.m.

Re: The Ontario Food Terminal Board

From the Ministry of Agriculture
and Food:

Dr. George H. Collin
Assistant Deputy Minister
Marketing and Standards

Carl F. Dombek
Director
Legal Services

Pamela Young
Executive Assistant
Marketing and Standards

Wednesday, 25 May 1988

10:00 a.m.

Re: The Civil Service Commission

From the Human Resources Secretariat:

Dr. Elaine M. Todres
Deputy Minister

Lesley Lewis
Director
Planning and Research Branch

11:00 a.m.

Re: The Ontario Securities Commission

From the Ontario Securities Commission:

Stanley Beck
Chairman

Charles Salter
Vice-Chairman

Ermanno Pascutto
Director
Director's Office

Wednesday, 1 June 1988

10:00 a.m.

Re: The Civil Service Commission
From the Ministry of Citizenship:

Hon. Gerry Phillips
Minister of Citizenship

Maureen O'Neil
Deputy Minister

Agencies, Boards and Commissions reviewed to date

1st Review: (9 November 1978)	Waste Management Advisory Board Pesticides Advisory Committee Ontario Food Council Agricultural Research Institute Alcoholism and Drug Addiction Research Foundation Ontario Institute for Studies in Education Education Relations Commission Farm Machinery Board Land Compensation Board of Ontario Milk Commission of Ontario Cream Producers' Marketing Board St. Lawrence Parks Commission Ontario Council for the Arts Ontario Heritage Foundation
2nd Review: (3 December 1979)	Ontario Research Foundation Ontario Telephone Service Commission Ontario Housing Corporation Ontario Food Terminal Board Ontario Council of Health Ontario Municipal Board
3rd Review: (2 December 1980)	Ontario Educational Communications Authority Ontario Lottery Corporation Board of Ophthalmic Dispensers Ontario Labour Relations Board Ontario Northland Transportation Commission Liquor Control Board of Ontario
4th Review: (19 November 1981)	Ontario Racing Commission Ontario Hockey Development Committee Farm Pollution Advisory Committee Ontario Place Corporation
5th Review: (11 May 1982)	Ontario Board of Censors Ontario Energy Board Ontario Police Commission Toronto Area Transit Operating Authority
6th Review: (7 December 1982)	Art Gallery of Ontario Civil Service Commission Commission on Election Contributions and Expenses Ontario Mortgage Corporation Wolf Damage Assessment Board
7th Review: (15 December 1983)	Criminal Injuries Compensation Board The Law Society of Upper Canada Ontario Cancer Treatment and Research Foundation Ontario Manpower Commission Ontario Status of Women Council

8th Review: Alcohol and Drug Addiction Research Foundation
(21 June Board of Funeral Services
1984) Board of Parole
Board of Visitors of Homewood Sanitarium,
Guelph
Crop Insurance Commission of Ontario
Game and Fish Hearing Board
IDEA Corporation
Nursing Homes Review Board
Social Assistance Review Board

9th Review: Animal Care Review Board
(19 November Children's Services Review Board
1984) Niagara Parks Commission
Niagara Falls Bridge Commission
Ontario International Corporation
Ontario Junior Farmer Establishment Loan
Corporation

10th Review: Assessment Review Board
(25 September Fire Code Commission
1985) Geoscience Research Review Commission
Health Disciplines Board
Languages of Instruction Commission of Ontario
Licence Suspension Review Board
Liquor Licence Board of Ontario
Ontario Drainage Tribunal
Selection Panel (Ontario Graduate Scholarships)
Travel Industry Compensation Fund Board of
Trustees

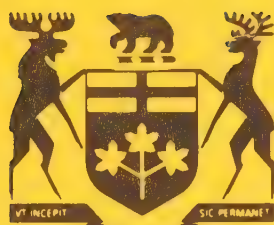
11th Review: Canadian National Exhibition Association
(7 January James Bay Educational Centre
1986) Board of Management of the Guild
Metropolitan Toronto Convention Centre
Corporation Board of Directors
Minaki Lodge Resort Limited and Minaki
Development Company Limited
Old Fort William Advisory Committee
Ontario Economic Council
Ontario Human Rights Commission
Ontario Stock Yards Board
Toronto Stock Exchange Board of Directors

12th Review: Ontario Advisory Council on Multiculturalism
(12 February and Citizenship
1987) Ontario Arts Council
Ontario Development Corporations
Ontario Land Corporation
Ontario Lottery Corporation

13th Review: Agricultural Council of Ontario
(24 July Liquor Control Board of Ontario
1987) Ontario Northland Transportation Commission
Pesticides Advisory Committee

14th Review: Civil Service Commission
(June 1988) Pension Commission of Ontario
Ontario Food Terminal Board
Ontario Securities Commission

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Ontario

Standing Committee on Government Agencies



Report on Agencies, Boards and Commissions (No. 15)

2nd Session 34th Parliament
38 Elizabeth II

STANDING COMMITTEE ON
GOVERNMENT AGENCIES



COMITÉ PERMANENT DES
ORGANISMES GOUVERNEMENTAUX

LEGISLATIVE ASSEMBLY
ASSEMBLÉE LÉGISLATIVE

TORONTO, ONTARIO
M7A 1A2

The Honourable Hugh Edighoffer, M.P.P.,
Speaker of the Legislative Assembly

Sir,

Your Standing Committee on Government Agencies has the
honour to present its Report and commends it to the
House.

A handwritten signature in dark ink, appearing to read "Allan McLean".

Allan McLean, M.P.P.
Chairman

Queen's Park
February 1989

STANDING COMMITTEE ON GOVERNMENT AGENCIES

MEMBERSHIP AS OF WEDNESDAY, 22 FEBRUARY 1989

ALLAN McLEAN
Chairman

BILL BALLINGER

BRAD NIXON

MICHAEL BREAUGH

MARIETTA ROBERTS

MARGARET MARLAND

ROBERT RUNCIMAN

SHELLEY MARTEL

LARRY SOUTH

GORDON MILLER

MURAD VELSHI

Deborah Deller
Clerk of the Committee

Douglas Arnott
Clerk of the Committee

Ray McLellan
Research Officer

Lewis Yeager
Research Officer

Lorraine Luski
Research Officer

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I. INTRODUCTION

Under Standing Order 90 (f) the Standing Committee on Government Agencies is given the mandate to review the operation of all agencies, boards and commissions of the Government of Ontario. The Committee is empowered to make recommendations on such matters as the redundancy of agencies, their accountability, whether they should be sunsetted and whether their mandates and roles should be revised.¹

In accordance with its terms of reference, the Committee decided to review the operation of the following agencies:²

Advisory Council on Occupational Health
and Occupational Safety
Ontario Waste Management Corporation
St. Lawrence Parks Commission

During August and September 1988, the Committee conducted public hearings with respect to these agencies and heard testimony from the representatives of the agencies, and in one case from community representatives. The Committee wishes to express its appreciation to all the witnesses who presented their views.³

¹See Appendix A for the complete text of S.O. 90(f)

²See Appendix C for a list of agencies reviewed by the Committee since 1978.

³See Appendix B for a list of witnesses who appeared before the Committee.

The Committee wishes to acknowledge the cooperation of the officials of the various ministries of the Government of Ontario and the agencies themselves.

In addition, the Committee urges ministers under whom these agencies fall to give serious and thoughtful consideration to the Committee's recommendations.

The Committee wishes to express its appreciation to the Clerks of the Committee and the Research Officers for their assistance and dedication to the work of the Committee.

The recommendations contained in this report represent a consensus of opinion rather than complete agreement on every issue that was before the Committee. While each member of the Committee may not agree with every recommendation, your Committee is pleased to present a report that each member can support.

II. AGENCY REVIEW

THE ADVISORY COUNCIL ON OCCUPATIONAL HEALTH AND OCCUPATIONAL SAFETY

INTRODUCTION

The Advisory Council on Occupational Health and Occupational Safety (ACOHOS) was created in 1977 by Order-in-Council with the prime objective of advising the Minister of Labour on all matters relative to occupational health and safety in Ontario. Council came into being one year before promulgation of the 1978 Occupational Health and Safety Act and was incorporated as part of the Act.

During the last decade or more, occupational health and safety issues have been fast emerging as an important area of public policy both provincially and nationally. The 1976 Ontario Royal Commission Report on the Health and Safety of Workers in Mines (the Ham Commission) helped develop the framework for the Occupational Health and Safety Act. Since that time the focus of occupational health and safety has moved away from "hard hat" and unsafe machinery issues towards a greater concern with health issues stemming from workplace pollutants and the effect these substances have on the short term and long term health of workers.

On the national scene, effective October 31, 1988, a "right to know" program took effect which changes the way hazardous substances and materials are handled and labelled in workplaces across Canada. The Workplace Hazardous Materials Information Systems or "WHIMIS" program amends Ontario's Occupational Health and Safety Act and requires employers to provide training for employees who work with hazardous materials so they will understand the hazards and know how to handle emergencies.

MANDATE AND POWERS

The Advisory Council does not have its own statute, however, the powers of the Advisory Council, the term of office, remuneration and expenses for members and the provision for an annual report are all set out under Section 10 of the Occupational Health and Safety Act. The functions of this advisory body, described in the Order-in-Council and subsequently Section 10 of the Act, are to make

recommendations relating to programs of the Ministry of Labour in occupational health and safety; and, to advise the Minister on matters relating to occupational health and occupational safety which may be brought to its attention or be referred to it.

In addition to the Advisory Council's primary objective of advising the Minister of Labour on all matters relative to occupational health and safety in Ontario, the Council has a number of secondary objectives. These include ensuring, as far as possible, that:

- occupational health and safety policies and programs effectively minimize health and safety risks in all Ontario workplaces;
- occupational health and safety knowledge is available and understandable to management, labour and the public at large;
- Council assist in promoting and establishing labour-management mechanisms to solve problems of occupational health and safety in the workplace;
- there is appropriate manpower training and development in the field of occupational health and safety; and,
- Council periodically review the effectiveness of the policies and programs implemented to achieve the foregoing objectives.

In addition to Council's primary and secondary objectives, Council has its own terms of reference.

1. To make recommendations on matters referred to it by the minister, submitted to it by interested parties or pursued by the council on its own initiative.
2. To advise the minister on programs in the field of occupational health and safety.
3. To advise the minister on policies, principles and procedures used in standard setting and in the development of guidelines to be used by the government.
4. To review and make recommendations to the minister on the introduction of new substances such as chemicals into the workplace.
5. To review and make recommendations on the detection, measurement and control of occupational health and safety hazards in the workplace.
6. To review and make recommendations about the arrangements for occupational health and safety for groups and areas where there are no formal health and safety programs or the programs are judged to be inadequate.
7. To advise the Minister on priorities for research and development in occupational health and safety.

8. To advise the Minister on priorities for manpower training and development in the field of occupational health and safety.
9. To prepare an annual report to the minister, which shall include the advisory memoranda, recommendations of the council and the government response.

Council's broad mandate may encompass issues that are within the mandate of other agencies and organizations (e.g. Occupational Health and Safety Educational Authority, Joint Steering Committee on Hazardous Substances in the Workplace) The Occupational Health and Safety Educational Authority is an arm of the Workers' Compensation Board created in 1984 to administer the Board's workplace safety education policy and to oversee activities and provide funding to the nine safety associations and the Workers Health and Safety Centre. The Joint Steering Committee on Hazardous Substances is a tripartite committee comprised of labour, management and chaired by the Assistant Deputy Minister, Occupational Health and Safety of the Ministry of Labour. It was created in 1987 to review the manner in which hazardous substances are regulated in all Ontario workplaces.

STRUCTURE AND ORGANIZATION

The structure and organization of the Advisory Council is described in section 10 of the Act. Council is comprised of not fewer than 12 and not more than 20 members representative of management, labour, technical persons and the public who are knowledgeable about occupational health and safety matters. Membership of the Advisory Council currently stands at 17. All Advisory Council appointments are made for such term as the Lieutenant Governor in Council determines and may, subject to the recommendation of the Minister, be re-appointed for a further term, usually from one to three years.

The Lieutenant Governor in Council also designates a chairperson and vice-chairperson for the Council from among the appointed members, and may fill any vacancy that may occur in the membership of the Council. The remuneration for the Councillors are as follows: The Chairperson receives \$225 per diem, the Vice-Chairperson \$145 and the members \$110. In 1987 the Advisory Council as a whole met eleven times.

The Advisory Council currently has a staff of 8 consisting of 3 office staff, 3 professional support staff and 2 part-time unclassified staff.

Official contact with the Ministry of Labour concerning the business of Council or its task forces is done through the Council chairperson, vice-chairperson, or Council staff. Arrangements for attendance of Ministry staff at Council or task force meetings, or, the loan of Ministry background material, is made by Council staff through the office of the Assistant Deputy Minister or Deputy Minister as appropriate. Contact between Council members and MOL officials has traditionally resulted following Council's preliminary review of a proposed regulation drafted by Ministry officials. These meetings have been required to clarify areas of the proposed regulation that may have raised questions in the minds of council members.

MANAGEMENT/OPERATIONS

Section 10.-(6) of the Occupational Health and Safety Act sets out the powers of the Advisory Council and gives Council the authority to make rules and pass resolutions governing its procedure including the calling of meetings, the establishment of a quorum, and the conduct of meetings.

Advisory Council

The individuals appointed to the Council represent labour, management and the public at large who are knowledgeable about health and safety and have the ability to contribute a unique viewpoint to the overall thrust of the Council. They represent the concerns of the community at large and are selected from various parts of the province. Their responsibility is to critically examine and comment upon issues requiring attention.

Meetings of Council

Council meetings are held once monthly, usually on the second Tuesday. Special meetings of council may be held from time to time and dinner meetings with the Minister and Deputy Minister are generally scheduled at least once annually.

Conduct of Meetings

The Council chairperson or, in his/her absence, the vice-chairperson, presides at all council meetings. Where both the chairperson and the vice-chairperson are absent and neither has designated a member to act on his/her behalf, the members themselves shall choose a member to chair the meeting.

Quorum

Fifty percent of the current Council membership is required for a quorum. Where Council has authorized specific members to attend a special meeting, or to meet with a select group, a minimum of 75 percent of the members designated to attend is required for a quorum.

Task Forces of Council

An important part of Council's work is done through its task forces which are formed to assist Council in fulfilling its role of studying and reporting on a variety of health and safety issues. Typically, a member of Council is appointed to chair each task force. Membership on the task force usually consists of Council members and other experts in the field drawn from the larger community. Ministerial approval is sought for appointment of those outside of the Council. A task force, following its study, prepares a report for council's consideration. The Council, in turn, may submit an advisory memorandum to the Minister. If deemed appropriate, the Council has on occasion referred the draft memorandum to outside groups for comment following which the Council will then prepare its final advice on the matter to the Minister.

A task force's terms of reference are prepared by the Council and submitted for ministerial approval. The term of office of the task force membership is continuous from appointment until the work of the task force is concluded.

The chairperson of the task force and Council staff assigned to the task force are responsible for drawing up a work plan. Meetings of the task force are called by the chairperson as required in order to complete the assignment on time. The designated chairperson of the task force or an alternate will preside at all meetings. A quorum of 50 percent of the task force members is required.

Minutes are kept of all formal meetings of Council and its task forces. Once approved, copies of Council minutes are circulated to the Minister, Deputy Minister and Assistant Deputy Minister Occupational Health and Safety Division. Task force minutes may be passed to the Council chairperson but otherwise are not circulated outside the membership of the task force. Voting on motions of Council or its task forces is determined by a majority of votes of the members present. The chairperson

casts the deciding vote in the case of a tie. In instances where there is no consensus, members may submit a minority report. Both the majority and minority reports are submitted to the Minister or to Council as appropriate.

Examples of task forces that met during the period covered by Council's latest published annual report include:

- Task Force on Principles and Procedures for Setting Standards and Regulations;
- Task Force on Biotechnology;
- Task Force on Medical Examinations;
- Task Force on Small Business;
- Task Force on Occupational Health and Safety Education Training.

FINANCES AND BUDGET

The Advisory Council receives funding from the Ministry of Labour's Occupational Health and Safety Program. The Chairperson of the Advisory Council determines the manner in which agency expenditures are allocated. There is no indication that ACOHOS activity is limited by its funding. Following the standard accounts classification the Commission's expenditures can be broken down as follows:

	<u>1987-88</u>	<u>1986-87</u>	<u>1985-86</u>
Salaries and Benefits	271,600	259,900	213,500
Transportation and Communications	30,400	28,900	26,900
Services	42,600	55,400	43,400
Supplies and Equipment	25,200	71,400	17,800
TOTAL	369,800	415,600	301,600*

* Not included in 1985/86 ACOHOS expenses is \$82.2 thousand for Technical Services Contract re Council's Survey of Joint Health and Safety Committees, funding for which was provided from within the Ministry's Occupational Health and Safety Division budget.

ACCOUNTABILITY AND CONTROL

The Ontario Manual of Administration describes advisory agencies as bodies "whose prime function is the provision of information which will assist in the development of program policy or in the operation of programs." The Advisory Council on Occupational Health and Safety is designated by Management Board of Cabinet as an advisory agency within Schedule 1. Agencies within this schedule are characterized as follows: they are funded out of the Consolidated Revenue Fund; they are subject to the administrative policies established by Management Board; they have their administrative-support services provided by the responsible ministry; staff are appointed to the agency under the Public Service Act. Schedule 1 advisory agencies, such as the Advisory Council on Occupational Health and Occupational Safety, do not require a Memorandum of Understanding unless the Minister considers it appropriate. Presently, there is no Memorandum of Understanding between the Ministry of Labour and the Advisory Council, nor is one being developed at this time.

The Council has an arm's length relationship with the government. The estimates of the Advisory Council are reviewed by the Legislature under the Ministry of Labour, Occupational Health and Safety Program. The agency is subject to audit by the Provincial Auditor and the Ministry of Labour's internal audit process. In terms of the latter, a limited audit took place in 1984. The Advisory Council was briefly considered in the McKenzie-Laskin Report on the Administration of the Occupational Health and Safety Act, January 1984, and was the subject of one of the report's recommendations.

Sources of Information/Confidentiality

The sources of information on which the Council bases its decisions and reports are as follows:

- published material readily available to the public;
- unpublished documents significant to the subject under study (which may or may not include restrictions placed by the owner requesting that material not be reproduced without permission);
- information provided by a wide array of people who meet with Council and/or Council task forces; and

- results of Council task force research questionnaires reported to Council.

Except where information has been provided on a restricted or confidential basis, copies of background material are shared with the public. Where information is confidential, Council seeks the author's permission before passing the material on, or, refers the person requesting the information to the original source. Media contact is provided through the Council chairperson.

Protocol Governing Information Exchange with the Minister

The following categories of communication exchange between Council and the Minister were first approved on April 24, 1978 and remain in effect today.

- i) No formal record is kept of informal discussions between the chairperson and the Minister.
- ii) Where Council's views on a particular matter are passed to the Minister in an informal letter, no formal reply is required.
- iii) Where formal advice from Council to the Minister is made either by letter or advisory memoranda, a formal reply is expected indicating the Ministry's response.

Handling of Ministry Documents by Advisory Council Members

From time to time the Advisory Council receives informal communication from the Ministry of Labour such as letters, memoranda, draft proposals and final documents. The Council and Ministry agree that the information should be classified in the following manner:

- i) Letters/memoranda/reports providing information to assist work of Council remain within the confidence of Council members.
- ii) Documents submitted to Council by the Ministry for consideration and comment are considered confidential unless otherwise specified by the Ministry.
- iii) Public documents published by the Ministry are not restricted and the Ministry should specify that these documents are public material.

Protocol for Release of Advisory Memoranda

Prior to submission of advisory memoranda to the Ministry of Labour, draft documents are considered confidential and are retained in the office of the Council chairperson

until released by the Minister or published in the annual report of Council. Advisory memoranda are categorized by Council as one of the following two categories: (i) subject to early release due to the pressing nature of the issue to other jurisdictions or affected parties; or (ii) subject to release through publication in the annual report of Council to the Minister.

Submission and Release of Advisory Memoranda

- Once the advisory memorandum is presented to the Minister by the Council chairperson and the Minister has responded in full, the advisory memorandum may be released by Council.
- If the advisory memorandum is classified as category (i) document, a release date will be established by the Minister and council members will receive a copy two days prior to the release date. In the event that the Minister decides to release the document prior to the release date, Council is advised by the Minister in sufficient time to ensure that members receive a final advisory memorandum.
- The Minister may decide to circulate an advisory memorandum to members of the public for comment. In such an event, the chairperson should be notified in advance of the Minister releasing the advisory memorandum and ministerial letter to the public. A copy of the Minister's letter to the public should be provided to the Council chairperson. At that time, copies of the advisory memorandum will be sent to Council with a note that the document is in the public domain.
- All advisory memoranda, with an indication of the action taken by the Minister, will appear in the Council's annual report.

Freedom of Information

To date, Council has received only one request for information under the provisions of the Freedom of Information Act. The item involved a request for Council minutes which fall within the discretionary exemption provisions of the Act.

Council's Guidelines for Interaction with the Public

In fulfilling its mandate of advising the Minister on matters which he/she brings before Council, or advising the Minister on matters which Council itself believes are significant, Council and its task forces seek public input to ensure that their advice is derived from a broad information base.

Council has highlighted the following issues for consideration in developing its policy concerning interaction with the public:

- definition of public;
- the position of the Council as an organization representing the public;
- the manner in which Council can obtain advice from the public;
- the circumstances in which the Council should make on site visits to workplaces; and
- the circumstances in which Council should hold formal hearings.

Council as Representative of the Public

Members of the Advisory Council are not civil servants and their viewpoint is independent from that of the civil service. Each member holds a responsible position in the community and has a range of expertise to contribute. The expertise of Council members is supplemented by specialists invited to join the Council's task forces. In addition to Council's collective expertise, including that of its task forces, Council consults with other groups in society to provide the Minister with the most thorough advice, to "test" the practicality of its ideas, and, to consider and be informed of views or issues of which they may have been previously unaware.

Definition of Public

For its purposes, the Council views the "wider public" as the following profit and non-profit organizations and represent the particular views of its members:

- Labour organizations;
- Management organizations;
- Educational organizations/institutions; and
- Professional associations.

The Council also considers the views of others, e.g., housewives, independent business persons, non-unionized labour who are not directly represented in these organizations.

How the Council Meets with its Public

The degree of interaction with the public is determined by the issue under consideration by Council. Interaction may take place in a number of ways including:

- presentation of briefs;
- consultation with Advisory Council's Task Forces; and
- worksite visits.

Presentation of Briefs

When Council seeks the views of individuals or organizations in order to assist it in fulfilling its mandate, it may invite selected individuals or organizations to present their comments on specified questions, or ask the group to raise other issues which should be brought to Council's attention. Such meetings in which briefs are presented (including the briefs themselves) may be open to other interested parties. However, the Council does not advertise such meetings. Instead, it invites those parties Council believes would be interested.

The Council's Procedures Manual states that formal public hearings held under the Public Inquiries Act is an option not available to Council for several reasons. The Advisory Council does not have the authority, and, it was the view of Council (expressed in the second annual report) that advertising public hearings to the public at large was not the most effective approach for obtaining input. Council has sought public input by inviting groups to appear before it or submit briefs.

Consultation with the Advisory Council's Task Forces

By establishing task forces, Council has invited individuals other than Council members to the task forces thereby increasing the expertise of such groups. Task forces, in turn, invite and meet with various organizations to undertake a frank discussion of issues. The task force proceeds from agreed upon objectives and an agenda. In attempting to gain a grasp of a defined issue, the task force seeks out the advice of groups that can offer guidance and assistance.

Worksite Visits

When circumstances arise that require Council to visit worksites to gain a better understanding of an issue, Council sends a small representative group, or, refers the matter to a task force which could then visit the worksite. This approach has been used on a couple of occasions.

Council generally prefers to invite representatives from various worksites to attend Council meetings and discuss areas of common concern. Several Council members currently hold positions as health and safety representatives for large unions and are therefore exposed to a wide variety of health and safety issues in their respective workplace settings. Moreover Council members perceive themselves as wearing their "Council hat" for only two days per month. For the rest of the time they are occupied in their respective workplaces and remain oriented toward health and safety concerns.

Annual Report

Provision for the Advisory Council's annual report is included in Section 10 of the Occupational Health and Safety Act. In June each year the Advisory Council files an annual report which describes the council's activities for the year, including advisory memoranda together with responses received from the Minister. Council's tenth annual report covered the period April 1, 1987 to March 31, 1988. It is published in two unilingual versions - French and English. In future Council will publish its annual report simultaneously in both languages.

Sunset Review

The objective of a sunset review is to determine whether an agency should be terminated as declared or be re-established for a further period of time. The Advisory Council on Occupational Health and Safety was the subject of a sunset review by Management Board of Cabinet in March 1983. It was confirmed at that time that the Advisory Council was to continue for five years and the next sunset review date was set on March 31, 1988. The results of this latest review are in the process of being finalized. Notwithstanding the results of the current or any subsequent review, if a decision to sunset the Advisory Council is made at some future date, this would require an amendment to Section 10 of the Occupational Health and Safety Act.

RECOMMENDATIONS

A key concern of the Standing Committee arose from the fact that through the years 1981 to 1987, an increasing proportion of the Advisory Council's and staff time had been taken up with their audit role in the standard setting process for designated substance regulations. The result of this was twofold. On the one hand, Council played a useful role in terms of analyzing the background documentation on the designated substance assembled by the Ministry, reviewing the adequacy of the public consultation process, and determining whether the regulation and codes are internally consistent and the Ministry's intent is clearly expressed. On the other hand, Council utilized as much as two thirds of its time in this process, leaving only about a third of its time to attend to the other aspects of its mandate. Having considered this, Council, on its own initiative concluded that it would prefer to withdraw from its practice of reviewing each of the proposed designated substance regulations prior to promulgation. Council communicated this decision to the Minister of Labour in a letter dated March 31, 1987 that was published in Council's Ninth Annual Report.

The Standing Committee on Government Agencies concurs with Council's action in this regard noting that Council's withdrawal from the standard setting process will not leave this area unattended. A joint steering committee on hazardous substances in the workplace was set up and is chaired by the Assistant Deputy Minister for Occupational Health and Safety. This steering committee has stepped into the void left vacant by Council's withdrawal from the designated substance regulatory process. The Standing Committee concurs with Council's action because Members concluded that too much of Council's time was taken up in this pursuit.

This is not to say that Council was less than vigilant in ensuring that attention was focussed on other equally important occupational health and safety issues. The Committee noted that in Council's Advisory Memorandum 86-III "Concerning Consultation" to the Minister of Labour, Council expressed to the Minister its concerns about the well-being of workers in Ontario and the need to develop meaningful consultation with all occupational health and safety stakeholders. In that memorandum, Council recommended that the Minister improve consultation, build consensus and resolve concerns about training, labour's involvement in the standard setting process and an examination of the underlying premises of the Act. The Committee agrees with that action taken by Council.

The Standing Committee is concerned about the continuing high rate of accidents, injuries and occupational disease in the province despite the regulations and legislation in the area of health and safety. In future, should there be a recurrence of consensual breakdown among workplace parties and the Ministry of Labour inspectorate concerning industrial practices that adversely affect health and safety in the workplace, the Committee is of the opinion that Council should provide similar advice and recommendations to the Minister of Labour.

The Committee therefore recommends that:

1. Council continue its role of advising the Minister of Labour about occupational health and safety issues with Council increasingly setting its own agenda within the framework of its mandate. Where appropriate, Council should strongly emphasize its concerns to the Minister as it did in its advisory memorandum on consultation.

The Committee remains concerned about the high incidence of accidents among Ontario workers. The Committee's attention turned toward the safety performance of those workers categorized under the Farm Safety Association (FSA) which is one of the nine provincial safety associations.*

The Committee was interested in the FSA in light of the fact that farming operations are excluded from the provisions of the Occupational Health and Safety Act. In terms of injury frequency rate,** the Committee noted that farming (FSA) ranked fourth worst after the forest products industry (FPAPA), transportation (TSAO) and the construction industry (CSAO), according to 1987 provisional accident statistics prepared by the Workers' Compensation Board (WCB) comparing accident rates of the nine safety associations.

* The nine safety associations are as follows:

Construction Safety Association of Ontario	C.S.A.O.
Electrical Utilities Safety Association	E.U.S.A.
Farm Safety Association	F.S.A.
Forest Products Accident Prevention Association	F.P.A.P.A.
Health Care Occupational Health & Safety Association	H.C.O.H.S.A.
Industrial Accident Prevention Association	I.A.P.A.
Mines Accident Prevention Association of Ontario	M.A.P.A.O.
Ontario Pulp and Paper Makers Safety Association	O.P.P.M.S.A.
Transportation Safety Association of Ontario	T.S.A.O.

** The number of lost time injuries per 100 workers.

Secondly, farming ranked fifth worst in terms of accident severity, which is the average duration on compensation, after mining (MAPAO), pulp and paper makers (OPPSMA), forest products (FPAPA), and, the construction industry (CSAO).

The Committee expressed strong concern with the safety statistics of the farming industry and the absence of health and safety regulations for the agricultural sector. However, the Committee is aware that because of the atypical nature of farming, with its long, irregular hours, seasonal nature and integration of work and family life, further consideration should be given to an industry-specific set of health and safety standards. Members are also concerned that of the 17 Advisory Council Members, there is no representative of the agriculture sector on Council. The Committee therefore believes that the Advisory Council should undertake a separate review of health and safety in the agriculture sector and prepare a report for the Minister of Labour.

The Committee therefore recommends that:

2. **Council set up a task force to study health and safety in the agriculture sector and prepare advice for the Minister of Labour.**

The Committee has noted that the Council will be embarking on two major areas in the future; namely, occupational health and safety education/training for workers, and improving occupational health and safety delivery for small business. The latter represents an initiative that was first taken up by Council in 1979. Small business establishments represent a concern in terms of workplace accidents and injury statistics because while each establishment may have few accidents, collectively, small business comprises a large percentage of the Ontario workforce.

Council is looking at the issue in terms of how best to reach this part of the economy in order to generate health and safety awareness with a view to alleviating current

health and safety problems. To this end, Council has established a task force on small business comprised of Council members and others, namely, a representative from the Canadian Federation of Independent Business and a representative of a community occupational health information service. Committee members endorse this initiative. However, the Committee is concerned that Council does not have sufficient

representation from the small business community on its Task Force to represent this sector's point of view. Moreover, the Council members on this Task Force represent only large organizations - universities, industrial firms and organized labour.

The Committee therefore recommends that:

3. Council increase the number of representatives on its Task Force on Small Business by adding one or two others from the small business community.

The Committee reviewed the membership of the Advisory Council on Occupational Health and Occupational Safety. The Committee noted that the membership of Council is heavily weighted in favour of large urban institutions and organizations. While this tripartite composition of labour, management, and the public represents essential components and an important balance, the Committee nevertheless believes that the make up of Council should be broadened to include representatives from the farming and small business sectors. Council appointments are made at the discretion of the Minister of Labour. Membership cannot exceed 20 or fall below 12 and currently stands at 17. It is the Committee's belief that appointing representatives from the small business and farming sector to Council would balance out the Agency's current tripartite mix of individuals representing large urban industrial organizations.

The Committee therefore recommends that:

4. Council consider the merits of broadening the mix of representatives on Council to include members of the small business and agriculture sectors and prepare ministerial advice to that effect.

During the public hearings in which the Advisory Council appeared before the Standing Committee on Government Agencies, the discussion touched upon two areas that are relevant to Council's work; namely, regulations, and health and safety in mines and mining plants. These areas were recently the subject of two Legislative Committee Reports - the Report on Regulatory Reform, prepared by the Standing Committee on Regulations and Private Bills, and the Report on Mining Accidents and Fatalities, prepared by the Standing Committee on Resources Development. These 1988 reports were tabled in June and July respectively. Council staff noted that they were familiar with the Report on Mining Accidents and Fatalities. However, Council

was not aware of the Report on Regulatory Reform. In view of this, the Committee concluded that Council staff should closely monitor Hansard for references to committee reports tabled in the Ontario Legislature.

The Committee therefore recommends that:

5. **Staff of the Advisory Council should continue to closely monitor Hansard for reference to tabled Legislative Committee Reports relevant to the ongoing work of the Council.**

Having made the above-noted recommendations to strengthen Council's representative nature, some members of the Standing Committee on Government Agencies expressed the opinion that now is the time to consider the multitude of health and safety advisory and regulatory bodies in place, such as the Advisory Council, and determine which ones should be sunsetted and which ones should continue. The growing numbers of such organizations are straining the finite resources of labour and management representatives, who must participate in these consultative processes.

The Standing Committee noted that the Advisory Council played a useful role when it was involved in the standard setting process for designated substance regulations between the years 1981-1987. It has since withdrawn from that process in order to focus on other fundamental, long-term aspects of its mandate. A Joint Steering Committee on Hazardous Substances in the Workplace has stepped into the void left vacant by the Advisory Council.

In view of Council's withdrawal from the designated substances regulatory process, and the emergence of a new, bi-partite body to assume this role, some Committee Members feel that labour's resources will be unduly taxed if labour continues to serve on both the Advisory Council and the Joint Steering Committee. The Joint Steering Committee remains critical in terms of labour's input into the regulatory process regarding hazardous substances, a process key to achieving a healthy and safe workplace. Therefore, some Members on the Standing Committee on Government Agencies raised questions regarding the continuing relevance of the Advisory Council on Occupational Health and Occupational Safety and asked that Management Board take this into account when finalizing its review of this agency, which would include a consideration of sunset review. A decision by Management Board is expected in early 1989.

ONTARIO WASTE MANAGEMENT CORPORATION

INTRODUCTION

The Ontario Waste Management Corporation (OWMC) is a crown corporation given the responsibility to construct and operate industrial and liquid waste management facilities in the province. The OWMC was incorporated on December 5, 1980, by Order-in-Council 3254/80 and was formally established on July 2, 1981, by the Ontario Waste Management Corporation Act (Bill 90).

The Standing Committee on Government Agencies conducted hearings related to the Corporation and its operation on August 24 and 25, 1988. Appearing before the Committee as witnesses were the following OWMC representatives:

Dr. Donald Chant:	Chairman and President
Lorne Bentley:	Director of Administration and Finance
Michael Scott:	Director of Communications
Susan Austin:	Executive Assistant to the President

In his opening remarks, Dr. Chant related some of the history of OWMC, the anticipated timetable for obtaining approvals and constructing a treatment/disposal facility, and the present activities of the Corporation until the facility is in operation. Dr. Chant and his associates then responded to questions from Committee members.

This report provides an overview of the Corporation's mandate, structure and organization, corporate activities and accountability and control, as well as summarizing previous reviews of OWMC by the Provincial Auditor and the Standing Committee on Resources Development. Issues raised during hearings are then reviewed and Committee recommendations in response to these issues are presented.

BACKGROUND

The Ontario Waste Management Corporation was established to address increasing concerns associated with environmental impacts and risks to human health potentially related to improper management of wastes, particularly liquid industrial wastes, in Ontario. The OWMC was initially directed by the Ministry of the Environment (MOE) to develop treatment and disposal facilities at a site in South Cayuga near Dunnville,

Ontario. After reviewing geologic and hydrogeologic information, OWMC rejected that site in November 1981 and then commenced a process of site selection to identify another site in the province for a waste treatment and disposal facility.

The Corporation subsequently selected a proposed site in West Lincoln Township on a 135-hectare parcel of land off Highway 20 near the village of Bismarck in the Region of Niagara. It prepared a draft Environmental Assessment (EA) which was submitted to the Ministry of the Environment in February 1988 as part of its Presubmission Consultation Program. The six-volume draft EA is now undergoing review by the Ministry of the Environment, other provincial agencies, and interested or affected groups and individuals. The proposed facilities include a high-temperature rotary kiln incinerator, a physical-chemical treatment plant, an analytical laboratory and a landfill disposal area for stabilized wastes.

The Environmental Assessment documentation must provide comprehensive information regarding the need for the facility, alternatives to the undertaking, alternative strategies for accomplishing the stated goals, and the procedure by which the preferred alternatives were selected. Public concerns, potential impacts and mitigative strategies, and any likely residual impacts on the physical, biological or social environments are also discussed.

Approval of the proposed undertaking is being sought through a Joint Hearing constituted under the Consolidated Hearings Act, S.O. 1981, c. 20.

THE CORPORATION'S MANDATE AND POWERS

Mandate

The Corporation, in the 1986-87 Annual Report, describes its mandate as follows:

The Ontario Waste Management Corporation (OWMC) was formally created by Chapter 21 of the 1981 Statutes of Ontario which received Royal Assent on July 3rd of the same year. OWMC's primary responsibilities are to design, construct and operate a province-wide system for the treatment and disposal of liquid industrial and hazardous waste, and to develop a long-term program to assist in the reduction and recycling of such wastes.

Objects of the Corporation

From Section 3 of the Ontario Waste Management Corporation Act, 1981:

- A. to research, develop, establish, operate and maintain facilities for the transmission, reception, collection, examination, storage, treatment and disposal of wastes including sewage; and
- B. to perform such other duties as may be assigned to it under this or any other Act.

As noted in its Corporate Strategic Plan, 1988/89-1992/93:

The government has specifically charged OWMC with responsibility for establishing and operating one or more waste disposal facilities for the transmission, reception, collection, examination, storage, treatment or disposal of liquid industrial waste and hazardous waste, and authorized OWMC to take steps to initiate, stimulate and encourage the recycling, reduction, recovery and exchange of liquid industrial waste and hazardous waste.

Regulatory Environment

The following overview of the OWMC's regulatory approval environment was provided by the Corporation in Volume I of its Draft Environmental Assessment for its proposed waste treatment facility.

At its creation in July 1981, OWMC was exempted from the provisions of the Environmental Assessment Act (EAA). Notwithstanding that exemption, OWMC adopted key principles of the environmental assessment process including an interpretation of the "environment" as encompassing social and economic as well as biophysical elements, a consideration of effects on that environment at each stage in its decision-making and involvement of the public throughout its siting and facility development process.

By Order-in-Council OC 1779/85, OWMC was placed under the provisions of the Environmental Assessment Act, R.S.O. 1980. This led to the documentation of its planning and decision-making activities since 1981 in the terms of an "environmental assessment" as described by the EAA. Details of the proposed facility as required for approvals under the Environmental Protection Act, R.S.O. 1980, are provided in the accompanying Design and Operations Report.

Approvals under several other statutes are or may be required. These are:

- the Expropriations Act, R.S.O. 1980;
- the Local Improvement Act, R.S.O. 1980;
- the Lakes and Rivers Improvement Act, R.S.O. 1980;
- the Conservation Authorities Act, R.S.O. 1980;
- the Ontario Water Resources Act, R.S.O. 1980.

Approval of the proposed undertaking is being sought through a Joint Board Hearing constituted under the Consolidated Hearings Act, R.S.O. 1981.

The Corporation does not have a regulatory mandate. Such activities are the responsibility of the Ministry of the Environment, using regulations under the Environmental Protection Act, R.S.O. 1980, c. 141, the Ontario Water Resources Act, R.S.O. 1980, c. 361, the Environmental Assessment Act, R.S.O. 1980, c. 140, and the Pesticides Act R.S.O. 1980, c. 376.

ONTARIO WASTE MANAGEMENT CORPORATION ACT, 1981

As noted earlier, the OWMC was incorporated on December 5, 1980, by Order-in-Council 3254/80 and was formally established on July 2, 1981, by the Ontario Waste Management Corporation Act (Bill 90).

The Crown Agency Act, the Public Service Superannuation Act and the Public Service Act apply to the Corporation.

The OWMC Act establishes the Corporation as a Crown Agency within the meaning of the Crown Agency Act, R.S.O. 1970, c. 100, s. 2 and defines its mandate (s. 3) as described earlier. Section 6 sets out the composition of the board of directors, details of members terms of office, and requires that the Lieutenant Governor in Council appoint a chairman and a vice chairman from the members of the Board. Section 7 defines a quorum for meetings of the Board while s. 8 describes procedures for designating an acting chairman for Board meetings as well as provisions for filling vacancies on the Board.

Section 9 concerns remuneration of Board members and s. 10 provides for removal of a member of the Board for cause. Section 11 allows for staffing and describes the

applicability of the Public Service Superannuation Act, R.S.O. 1970, c. 387 and the Public Service Act, R.S.O. 1970, c. 386. As well, s. 11 empowers the Corporation to engage persons on contract other than OWMC employees to provide professional, technical or other assistance to or on behalf of the Corporation.

Section 12 indicates the Corporations Act, R.S.O. 1970, c. 89 does not apply to OWMC, says the Corporation shall have a seal, and defines the capacity and powers of the Corporation. Section 13 relates to procedures for and limitations upon the passing of by-laws.

Section 14 required the OWMC not to establish facilities anywhere but the property described in the Schedule, that being the site in the former Township of South Cayuga, mentioned earlier. This provision was changed by Order-in-Council 1779/85 which required the Corporation to follow the following policies (s. 3):

- (a) It shall find one or more Sites at locations other than the property described in the Schedule to the Act suitable for the establishment of one or more Facilities; and
- (b) A Facility proposed by the Corporation shall not be established on a Site proposed by the Corporation until any necessary approvals under the Environmental Assessment Act, the Environmental Protection Act, the Ontario Water Resources Act and any other applicable statutes are obtained.

Order-in-Council 1779/85 (s. 3(b)) also removed the exemption from The Environmental Assessment Act, 1975, as well as s. 33(a) of the Environmental Protection Act, 1971 and s. 43 of the Ontario Water Resources Act which was originally described in s. 15 of the Ontario Waste Management Act. These acts now do apply to any proposed facilities of OWMC.

The OWMC Act, s. 16, empowers the Lieutenant Governor in Council to appoint persons to review any activity or proposed activity of the Corporation, and the reviewers would have the powers of a commission under Part II of the Public Inquiries Act, 1971. Section 17 defines the Corporation's fiscal year.

Section 18 requires the OWMC to make reports and provide information to the Minister [of the Environment] on any aspect of its business and affairs, and s. 19 pertains to the establishment and maintenance of a satisfactory accounting system, which shall be audited annually by the Provincial Auditor. Under s. 20, the net profits of the

Corporation are to be paid into the Consolidated Revenue Fund. Section 21 concerns the filing of annual reports.

STRUCTURE AND ORGANIZATION

The OWMC Board of Directors consists of eight members, all appointed by the Government (D.A. Chant, Chairman; J.M. King, Vice-Chairman; G.F. Bentley; M. Brechin; E.L. Fuller; W.M. Renn; R.S. Rodd; and T. Taylor). The Directors were reappointed on July 8, 1987 for a three year period by Order-in-Council 1577/87.

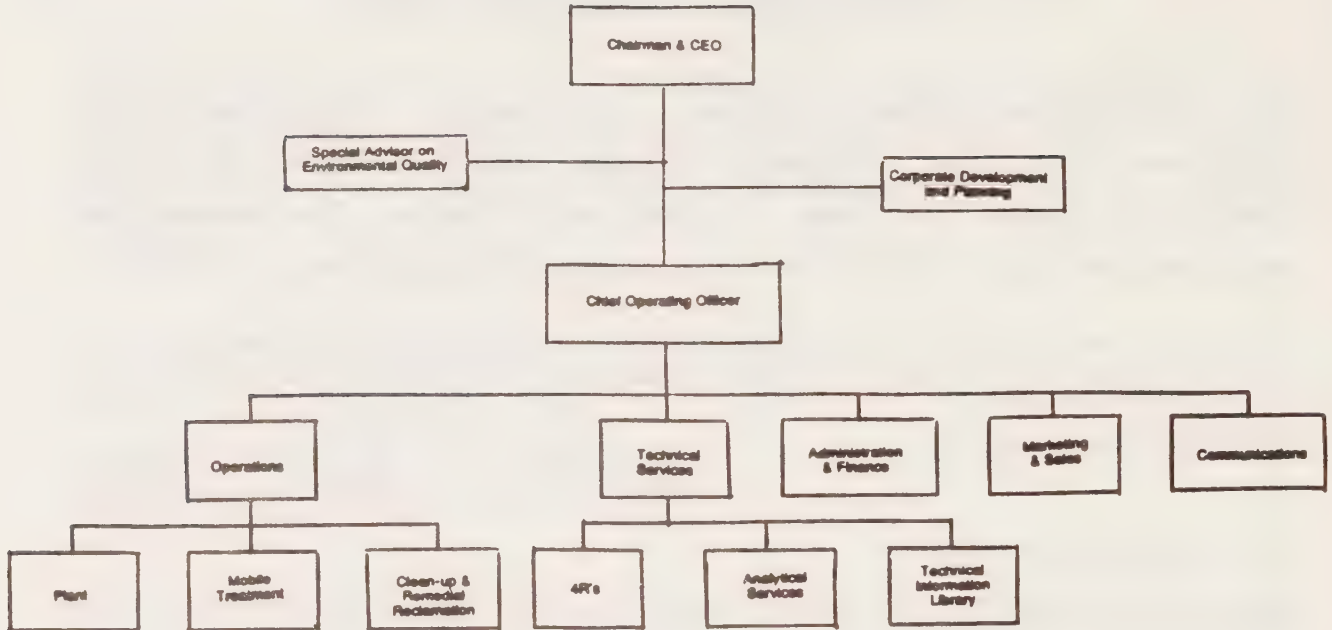
The following is a summary of the staff allocations at OWMC in the last three fiscal years:

	1987-88	1986-87	1985-86
(a) Government appointees	-	-	-
(b) elected officers	3	3	3
(c) other officers	-	-	-
(d) office staff	21	21	25
(e) professional support staff:			
(i) full-time	20	18	17
(ii) consultants (contract staff)	20	21	23

OWMC indicated in its Corporate Strategic Plan: 1988/89 - 1992/93 that at a meeting of its Strategic Planning Committee held in November 1987, four basic forms of organizational structure were presented for consideration, these being:

- functional;
- divisional;
- matrix; and
- hybrid.

Measured against a set of 13 criteria, including the need for continuity in management positions, effective stakeholder relations and good customer service, the hybrid model was selected as most appropriate for the OWMC. While the selection process highlighted several issues requiring further thought, the following Long-Term Preferred Organization Structure defines the recommended reporting relationships agreed upon as a result of this exercise.



CORPORATE OBJECTIVES AND PRIORITIES

According to OWMC's current Strategic Plan, the Corporation's fundamental purpose is to make a major contribution to the solution of the waste management problem in Ontario. A number of Key Corporate Objectives, listed below, were presented as the means by which the OWMC feels it will achieve this purpose:

1. To secure all necessary approvals for the construction and operation of a treatment and disposal facility at the earliest possible date;
2. To design, build and commission a treatment plant on time within an approved budget;
3. To operate the treatment plant while meeting emission standards 100 percent of the time, from time of plant commissioning;
4. To achieve full utilization of the plant as soon as possible after startup;
5. To achieve strong support from key stakeholders for strategic plan initiatives;
6. To be sensitive and responsive to public interests and concerns;

7. To refine our understanding of the segments of the hazardous waste market in Ontario;
8. To diversify our activities so that services such as mobile treatment, the 4Rs program and laboratory services will further reduce the volume of hazardous waste requiring offsite treatment; and
9. To act as conscientious and prudent managers of public funds.

In order to accomplish these objectives, OWMC has established a series of Corporate Strategic Priorities as part of its strategic planning process:

1. Effectively manage relationships with OWMC's key stakeholders;
2. Site, build and operate a treatment facility;
3. Build a viable corporate and operations organization;
4. Plan, design and implement management systems and processes;
5. Market and business development;
6. Encourage and upgrade generators' on-site waste management practices; and
7. Establish an on-going strategic planning system, with the second full planning cycle commencing in 1989.

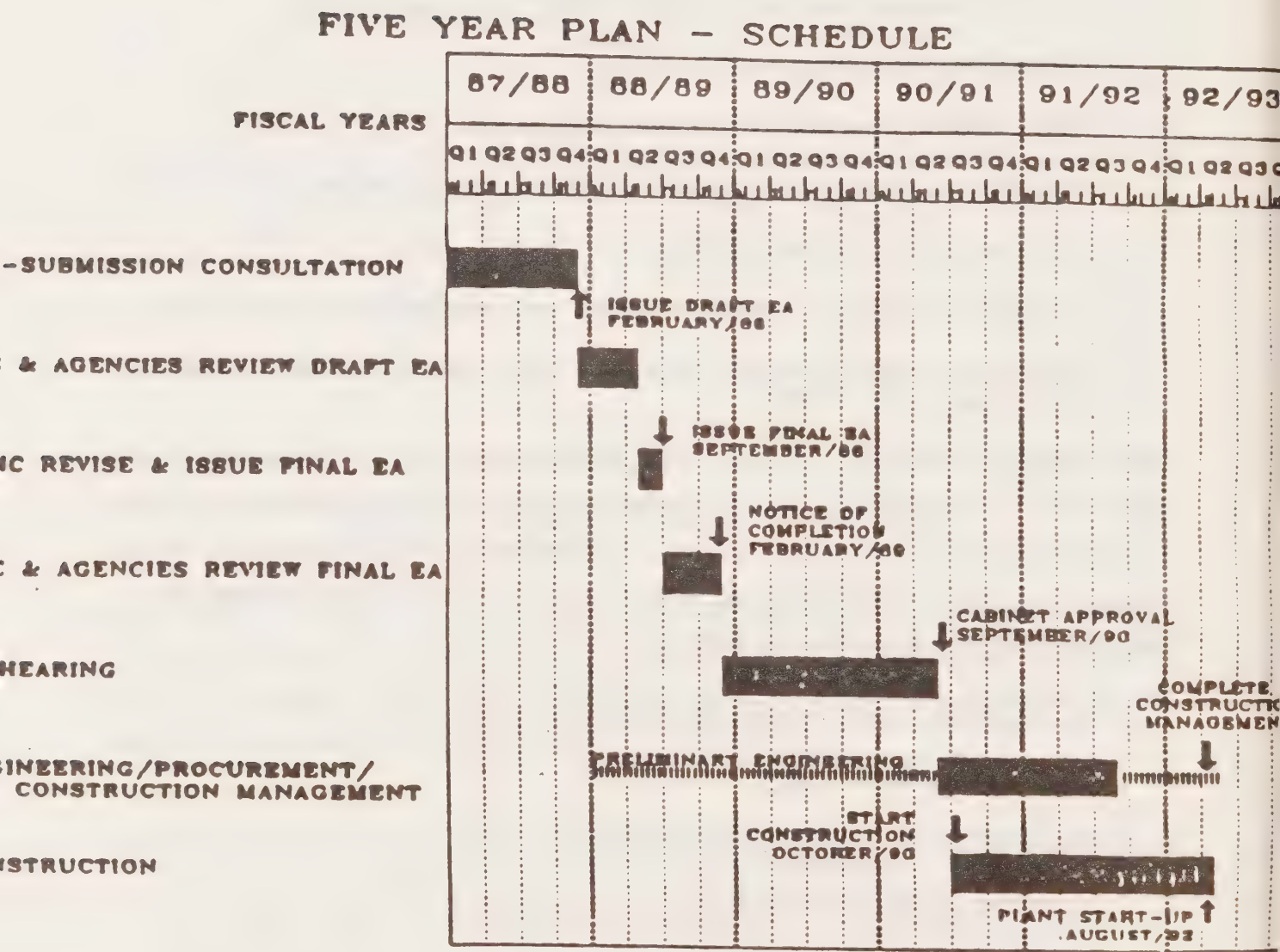
These priorities presumably are reflected in the management of the Corporation and its programmes. The OWMC is also assessing the feasibility of diversifying its activities in five areas in order to provide a means for achieving important objectives over the next several years. Staff members were assigned responsibility for preparing long-range action plans in the following areas:

- On-site cleanup and remedial reclamation services;
- Mobile treatment services;
- Expanded information/education services;
- Expanded laboratory services; and
- Transfer and collection network.

According to the Corporate Strategic Plan: 1988/89 - 1992/93, plans for these activities were to be completed between April - December 1988.

The major proposed activities of the Corporation over the planning period 1987/88 to 1992/93 are outlined on Figure 1. This schedule assumes Cabinet approval of the waste treatment/disposal facility in September 1990, and subsequent plant start-up in August 1992.

Figure 1



BUDGET AND FINANCE

The total expenses of OWMC in the last three years were reported as follows:

1987-88	1986-87	1985-86
\$15,732,000	\$12,348,000	\$13,833,000

The Corporation follows generally accepted accounting principles appropriate to a commercial operation and expenses are reported on an accrual basis of accounting. There are no additional services provided by the Ministry of the Environment (MOE) that are not reflected in these figures, since OWMC states that technical liaison between OWMC and MOE ensures no duplication of programs of common interest, such as laboratory services and waste reduction programs.

Expenses for the last three fiscal years were broken down as follows by OWMC:

	1987-88	1986-87	1985-86
a) Salaries and benefits	3,026,000	2,985,000	2,711,000
b) Transportation and communications	289,000	234,000	215,000
c) Services	12,332,000	8,930,000	10,694,000
d) Supplies and equipment	85,000	199,000	213,000
	15,732,000	12,348,000	13,833,000

The funding sources are Management Board of Cabinet and a grant from the Province of Ontario through the Ministry of the Environment. The OWMC Board approves a budget for submission to and approval by the Minister through the Deputy Minister. The OWMC budget is then taken forward as part of the MOE Estimates. The amounts of Government grants in recent fiscal years are:

1987-88	\$13,600,000
1986-87	\$14,200,000
1985-86	\$12,400,000
1984-85	\$14,849,000

OWMC states that the funding is adequate to achieve its desired objectives.

The Ministry of the Environment states:

The Ministry monitors the Corporation's expenditures by means of monthly expenditure reports filed by the Corporation and a bi-weekly cash flow authorization process. Controls on expenditures are exercised in the annual budget review process and in response to changes noted in the monthly expenditure reports. The Provincial Auditor provides an annual audit of the Corporation's financial statements. The Memorandum of Understanding, recently revised, strengthened the administrative accountability of the Corporation to the Government.

The Directors of the Corporation, except the Chairman who is a salaried employee, are paid \$200 a day for attending Board and committee meetings by Order-in-Council 1184/81. The total remuneration for all Directors for the year ended March 31, 1987, was \$14,100 compared with \$15,300 for the previous year.

Financial statements are included in the OWMC's Annual Report: 1986/87.

ACCOUNTABILITY AND CONTROL

The relationship of the OWMC with the Ministry of the Environment has been summarized by the Corporation as follows:

Since its establishment in 1981, OWMC has been classified as a Schedule 2 Crown Agency. By definition the Corporation manages its own administrative support services and does not appoint its employees under the Public Service Act. While the administrative policies established by Management Board of Cabinet do not apply to OWMC (unless specifically identified as applying to all agencies), the Corporation is governed by policies established by its Board of Directors which are consistent with policies specified in a Memorandum of Understanding with the Minister of the Environment and approved by Management Board of Cabinet.

The OWMC estimates are included in the estimates of the Ministry and presented to the Legislature by the Minister and its Annual Report is tabled in the House by the Minister.

The Ministry of the Environment issues policy directives and guidelines to the OWMC in specific instances rather than as a general practice. The Ministry employs Orders-in-Council as the mechanism to communicate and confirm policy directives that it wishes the Corporation to follow. Ministry financial controls were described previously on page 11.

An OWMC-MOE Liaison Committee, co-chaired by the Deputy Minister and the President of the Corporation, is the mechanism for addressing issues of mutual concern. The Liaison Committee is supported by a number of issue-specific Working Groups.

MOE notes that because the Corporation is currently in the development phase regarding its proposed facilities, and not yet in operation, that efficiency and effectiveness measurements are not yet appropriate when evaluating OWMC's performance. The Ministry has, however, investigated instances where duplication of effort was possible (e.g., recycling and use of private laboratories) and has been satisfied to date that no actual duplication has existed.

AGENCY REVIEW

Auditor's Report for 1986

The Annual Report of the Provincial Auditor of Ontario (s. 5.9) for the year ended March 31, 1986, included observations regarding salary administration at the OWMC.

The Auditor noted that part of the 1986 audit dealt with the Corporation's salary administration, and questioned the need for an independent consulting study on staff compensation. The Auditor's report also questioned the resultant salary levels and salary adjustments.

Standing Committee on Resources Development

The 1986-87 estimates of the Ministry of the Environment, which includes the OWMC's budget, were reviewed by the Standing Committee on Resources Development on Thursday, June 26, 1986. Dr. Donald Chant (Chairman), Lorne Bentley (Director of Administration and Finance), Michael Scott (Director of Communications) and Beth Benson (Executive Assistant) represented the OWMC at these hearings.

Dr. Chant provided an overview of the Corporation's work to date, emphasizing progress since he last appeared before the Committee in 1984, especially the identification of a preferred site. A wide range of questions were posed by Committee Members, particularly related to:

- selection of the West Lincoln site - evaluation criteria;
- the method of announcing the preferred site;
- whether OWMC's mandate includes research and development of new technology;
- innovative technology including the plasma arc;
- above ground storage of stabilized waste vs. underground storage;
- potential seepage of wastes;
- potential impacts of emissions on agricultural commodities;
- timetable for activities and facility development;
- benefits to Ontario industry from demonstrating waste disposal technology;
- would OWMC be passive or active receiver of wastes;
- disposal of chemical containers;
- intervener funding - criteria for funding;
- levels of risk for emissions;
- performance of similar facilities in Germany and the United States;
- details of expenditures;
- emphasis on recycling and waste reduction;
- relative mandates of OWMC and MOE;
- regulatory framework re proactive stance by OWMC;
- MOE assistance for industrial process improvements;
- operation of OWMC facility at break-even or profit;
- potential conflict between need to break even and mandate to encourage industry to use 4Rs;
- number of years until OWMC breaks even;
- payroll costs and economic impact on community;
- payment in lieu of taxes to municipality and associated assessment increase;
- other benefits to community;
- life of facility;
- potential to import wastes;
- location of potential transfer stations; and
- status of science of applied toxicology.

ISSUES AND RECOMMENDATIONS

Introduction

Following hearings, the Committee identified a number of observations and issues arising from information provided by witnesses, staff and Committee members. The Committee met in camera on October 26, 1988 to review these issues and again on November 2, November 30, December 5 (Sub-committee) and December 7, 1988 to discuss potential recommendations and this final report.

Issues examined by the Committee related to nine areas. Each of these is summarized below.

Financial Matters

- Some members noted that it will have taken a decade and over \$1 billion until the waste treatment/disposal facility is in operation and strongly indicated that this was excessive.
- OWMC responded that to date, 50% of these expenditures had been related to studies and site selection, 25% to design of the facility and 25% to set up and run the Corporation.
- Members questioned, if proven technology is to be emphasized and a European design was essentially being purchased, why were design costs so great for the facility? OWMC responded that although the technology is conventional, it must be custom designed to the site characteristics and for the specific types of wastes Ontario generates. Some members indicated that they were not convinced that costs for consultants were not excessive for the result obtained to date.
- Some members echoed earlier concerns of the provincial Auditor regarding compensation of OWMC personnel and methods for reviewing and increasing compensation compared with the Ontario Public Service and other Crown Agencies. The Hay System received considerable discussion. In particular, some members felt that salaries for senior OWMC staff were high compared with senior executives in the OPS, and that average salary increases for OWMC staff should not exceed that obtained by comparable OPS personnel.
- Regarding potential costs and revenues, Dr. Chant indicated that he hoped OWMC's operations would be at a break even point in 4-5 years. Some members indicated that this goal should be accelerated in light of past expenditures on OWMC.

- Since planning and development are largely completed, some members questioned why there has been no decrease in staffing. OWMC responded that the Environmental Assessment process requires different but just as many professionals to prepare documentation and witnesses, attend hearings, etc. Since the design of the facility is ongoing, OWMC stated it must keep its professional team together.

A number of Committee members had substantial concerns over financial and time expenditures to date by OWMC. It was recognized that the priority must now be placed on ensuring that future financial management at the Corporation is emphasized, and that expenditures during the detailed design and construction of the treatment and disposal facilities, if approved, must be tightly controlled. Staff compensation practices and consulting fees for services provided were noteworthy areas of concern.

In particular there was concern that consulting engineering fees be closely monitored and that if staff are to be trained in Germany to operate the treatment/disposal facility, measures be taken to ensure that such employees work for OWMC for a specified period to ensure value is obtained for these expenditures.

Some members felt that the Committee did not receive adequate information from OWMC on the economic costs and benefits of the use of the proposed technology for the treatment/disposal facility, and remain unconvinced that the full benefits of adopting an essentially existing design are reflected in the financial record of OWMC. For this reason, measures are needed to more closely monitor OWMC's financial management.

The Committee supports OWMC's stated goal of becoming independent of provincial grants as quickly as possible and urges the Corporation to develop a business plan with public input which includes a detailed strategy and specific mileposts to achieve this goal in a timely manner.

The Committee therefore recommends that:

1. The Standing Committee on Public Accounts review the financial management of the Ontario Waste Management Corporation.
2. The Provincial Auditor examine the affairs of the Ontario Waste Management Corporation on an annual basis with emphasis on expenditures for services to the Corporation.

The Approval Process

- Some Committee members strongly indicated that the entire process of getting the treatment/disposal system in place had taken far too long, particularly in light of the money spent. OWMC testified that even if it takes 10 years to get into operation, this would still be the fastest time for such a facility in the world. OWMC had a false start with another site and subsequently established a time consuming comprehensive site evaluation and selection procedure.
- In 1986 OWMC stated approval would be obtained in 1987 but this did not occur, largely because OWMC tried to split its Environmental Assessment (EA) into two pieces to simplify review, but MOE ultimately rejected this approach, necessitating reorganization of OWMC's efforts. Some members pointed out that OWMC should have anticipated this turn of events and that better communications with MOE would have prevented time from being wasted.
- OWMC suggested one bottleneck in the approval process is the turnaround time for Environmental Assessment Branch's review of documentation, perhaps due to a shortage of staff. The Committee did not feel that the EA approvals were a major component of the time required to get the facilities into operation.
- OWMC emphasized it would be helpful to have clearer guidelines for proponents preparing Environmental Assessments.
- OWMC indicated that with the best will in the world, the EA process is time consuming, in that it is a quasi-judicial, confrontational procedure where even one opponent can drag out the process for a year or more. However, Dr. Chant noted that there appeared to be no way to assure fairness without such a system.
- When asked who, if anyone, has benefitted from the delays in approval, OWMC responded that the winners are those who put the process above all else.
- When asked about possible ways of streamlining the EA Process, Dr. Chant suggested that all parties identify issues at the beginning of the hearing, then discussion would be limited to these issues. This appears to be happening now to some extent but it is a delicate matter to cut off lines of inquiry.
- The present timetable for approval will be out of OWMC's hands once the formal EA is submitted.

The Committee heard that the OWMC is preparing to submit its formal Environmental Assessment documentation to seek approval for its proposed treatment/disposal facility through a Joint Hearing under the Consolidated Hearings Act, S.O. 1981, c. 20. While some Committee members expressed serious concern over the pace at which the entire undertaking had progressed to date, the Committee heard that once the Environmental Assessment is submitted, the approval timetable is largely out of the hands of the Corporation. A number of suggestions were raised concerning

administrative procedures and staffing levels of the Environmental Assessment Branch of the Ministry of the Environment, and the potential for expediting proposed undertakings. The Committee understands that the Ministry of the Environment is currently reviewing administrative matters and many other aspects of the Environmental Assessment process. While the Committee encourages administrative efforts to make the application of the Environmental Assessment Act more efficient without compromising a full examination of the issues at hand, it was not felt appropriate to make specific recommendations on the approval process at this time since the OWMC is now entering the Assessment process as would any other proponent. As well, the Committee felt that the Environmental Assessment procedures were not in themselves a major factor in the overall project timetable. Some members indicated that tighter management procedures at OWMC could have led to the facility being designed and approved in a shorter time.

Safety

- In answer to Members' questions about employee safety at the OWMC facility, Dr. Chant responded that the hazardous materials in wastes generally are not as concentrated as those used in industry, so that no unusual risks are involved for well-trained employees.
- OWMC has consulted with the Ministry of Health regarding safety procedures and facilities and is also exchanging information and on-the-spot training with operators in West Germany.
- Wastes are to be accepted by contract and appointment only to ensure transfer stations and transportation of materials follow OWMC requirements.
- Regarding emergency responses, last spring OWMC put together a workshop with all local and regional Emergency Response Teams to clarify procedures and help define authority responsibility.
- Regarding the Spills Bill, Dr. Chant testified that primary liability rests with the transporter while secondary responsibility is with the owner of the wastes. OWMC feels it is neither until it accepts the load at the gate. Therefore OWMC's position is that it would have no formal liability for spills in transit, although it would have emergency response capabilities available, if needed.
- Further regarding emergency response planning, OWMC indicated it feels that it has a role to play in spreading expertise in dealing with spills of hazardous waste.

- Questions arose regarding transportation of materials to OWMC since Ontario does not have designated routes for hazardous goods. Greatest risks were identified at the Skyway Bridge and at the rivers flowing into Lake Ontario, which is a drinking water source. The question of such risks is dealt with in detail in Environmental Assessment documentation.
- The Federal government was identified as playing an important role in regulating transportation of hazardous loads.
- OWMC has an interactive relationship with the Ministry of Transportation regarding safety, but the Ministry feels that OWMC's volume of traffic and any additional hazards are not measurable compared with existing use of the transportation network, according to Dr. Chant.

The Committee placed a high priority on safety-related issues during its deliberations, particularly related to safety of workers and the public in the vicinity of the proposed facility, and with regard to transportation of wastes to the site. While the "Spills Bill" (Part IX of the Environmental Protection Act, R.S.O. 1980) defines responsibility for wastes being transported in the province, the Committee felt that the OWMC should be encouraged to play a significant role in emergency response planning. Some Committee members strongly felt that the mandate of the OWMC should include greater responsibility for the transportation of some hazardous wastes to its facility, and the Corporation should take measures to ensure that small industries are not discouraged from using OWMC's site due to transportation costs or unrealistic fears of liability.

The Committee therefore recommends that:

3. **The Ontario Waste Management Corporation adopt a policy to provide prompt emergency cleanup expertise and assistance for spills that may occur during delivery of wastes to its treatment/disposal facilities.**

Ontario Waste Exchange

- Committee members asked several questions regarding the operation of the Ontario Waste Exchange. It is run for OWMC by the Ontario Research Foundation. OWMC acts as a broker between industries wishing to obtain or dispose of wastes with specific characteristics.
- In response to questions regarding the financial operation of the Ontario Waste Exchange, Dr. Chant said it will not be self-sustaining in direct financial terms since OWMC feels a fee would be a disincentive at this point. It is viewed as a positive service by OWMC with an environmental payoff which gives it value to the province.

- Members questioned the magnitude of the Ontario Waste Exchange's services. OWMC responded that it is difficult to determine exactly the volume of wastes exchanged since many transactions are by private agreement by the firms once they are introduced. Dr. Chant estimated at least tens of thousands of tons have been taken out of the waste stream.

The Committee was supportive of the goals of the Ontario Waste Exchange and would encourage OWMC to place a high priority on measures to encourage the reuse or recycling of industrial chemicals as an alternative or supplement to simple treatment and disposal of wastes following a single use. Some Committee members felt, however, that a more detailed inventory of the types and amounts of wastes being exchanged is essential.

Role of the Private Sector

- In response to questions regarding why OWMC had not discussed joint ventures with the private sector at the onset in order to save time and money, OWMC testified that in the future, joint ventures with the private sector will provide benefits, but initially, OWMC believed that municipal challenges and slow approvals made waste management unattractive to the private sector. Once OWMC receives approvals for its proposed facilities, it may be easier to attempt joint ventures in some instances.

The Committee would encourage regulated private sector participation in waste management, particularly if it could ultimately substantially reduce public sector expenditures for waste treatment and disposal. Some Committee members emphasized that earlier participation of the private sector, perhaps through joint ventures, might have resulted in a much shorter time to get needed facilities into place, and would have required considerably less in terms of public expenditures. Greater efforts might have been made to identify incentives for private sector participation, or to overcome some of the apprehension about approvals.

Local Concerns

- In response to Members' questions about the effects of the proposed treatment/disposal facilities on nearby residents, OWMC responded that to minimize the number of people affected, it selected a site with only four families to be expropriated and relatively small numbers in the affected zone. The proposed access route is one of the main concerns of local residents and others. Some cannot be reassured under any circumstances, although OWMC conducts extensive public consultations and has upgraded socio-economic variables in its site evaluation process.

- When questioned about measures to compensate those affected by the proposed facilities, OWMC responded that it has established a property value protection plan to reassure its neighbours and reduce uncertainty.
- Regarding Members' questions about potential air pollution, Ontario Research Foundation is doing detailed atmospheric studies and computer modelling to determine locations of maximum impingement for emissions. The plant is designed never to exceed 5 percent of regulated levels to ensure a very large safety margin. OWMC will be required to prove such assertions at the EA hearing to the satisfaction of the Board.
- When asked about unanticipated impacts or those which cannot be mitigated, the Committee heard that post-operation monitoring and care is part of OWMC's proposal, and a liability fund is to be set up from revenues.

The Committee places a high priority on public safety and public participation in the waste management planning process, and encourages full consideration of the concerns of local residents near the proposed treatment/disposal site during upcoming Joint Board Hearings.

Waste Transfer Stations

- Members expressed serious concerns about the number of PCB storage sites around the province and potential dangers from leaks and fires. Dr. Chant indicated that existing hazardous waste transfer sites are private and some were set up long ago. The process for establishment of transfer stations is to be regulated in the future by MOE. For PCB storage, the Ministry of the Environment set the standards with input from OWMC and many others. A list of existing transfer stations was provided to the Committee by Dr. Chant.
- In response to Members' questions about the nature of these sites, OWMC stated that transfer stations are really bulking and sorting locations, with segregation of recyclable components. They comprise temporary storage with no treatment. MOE licenses these stations and generates the list, and the Waste Management Branch of MOE is responsible for all aspects of monitoring and regulation of these sites.
- In response to a question about how OWMC can plan without a detailed knowledge of the type and volume of wastes available, Dr. Chant indicated that OWMC has prepared an inventory of transfer station contents for marketing and transportation planning.

The Committee recognizes that the regulation and licensing of transfer stations is the responsibility of the Ministry of the Environment rather than the OWMC, but several members expressed great concern over the number and location of these bulking and sorting locations throughout the province, particularly with respect to site security and safety.

The Committee therefore recommends that:

4. The Ontario Waste Management Corporation communicate to the Ministry of the Environment measures based upon its experience and expertise to further ensure the safety and security of all hazardous waste storage sites until such time that these wastes can be transported to an approved treatment/disposal facility.

OWMC Procedures

- Responding to a question about categories of wastes to be accepted, OWMC answered that the Ministry of the Environment had adopted definitions used by the University of California at Davis, and is now moving toward a system such as OWMC recommended, so that OWMC was one of the players in setting these definitions for the province.
- Members questioned whether there were adequate controls in place to prevent misrepresentation of the types of waste transported. OWMC responded that the waste management procedures will depend to an extent on good will and honest reporting by industry but there are a number of controls, including registration, and considerable paper involved in MOE's manifest system. Dr. Chant felt the system had improved dramatically in the last 10 years, and added that while there will be no testing of loads in the procedures, wastes are quite predictable from particular industries. The waste generator must analyse his wastes, but generally there would be no further analysis by OWMC for detailed verification.
- When asked whether there were additional things OWMC would like to be doing, the establishment of a tank farm to start collecting wastes until the facility is ready was mentioned by Dr. Chant. This would require a separate EA which is too much for the Corporation to handle at once.

The Committee has no enthusiasm for the establishment of an interim waste tank farm at the proposed treatment/disposal site and supports a full Environmental Assessment for any proposed OWMC activities at the site. The Committee also wishes to encourage OWMC and the Ministry of the Environment to take all reasonable steps to ensure that all waste transportation and disposal practices fully comply with the intent of provincial and other regulations.

General Issues

- Ontario is presently a net importer of wastes. There may be opportunities for exchanges with specialized facilities in Quebec and U.S.A.
- A number of innovative technologies with possible roles in waste management were briefly discussed.

- While OWMC has no role in municipal solid waste management, it does promote the four Rs philosophy since once these are applied, one can only export, burn or bury remaining wastes.
- OWMC acts as a broker to put together waste generators and users for the Ontario Waste Exchange but it does not grant funds to operators to improve processes to generate fewer wastes. The Ministry of the Environment does do this. OWMC prefers its informing and expediting role.
- Regarding household hazardous wastes, MOE and municipalities are moving in this area. OWMC's plans include sufficient capacity for household wastes.
- Until it has its treatment plant in place, OWMC feels it is unable to take as great a leadership role in waste management planning as it one day hopes to do.
- OWMC has prepared a Waste Reduction Manual of Practice which has been obtained by 400 industries.

The Committee members suggested that the Ontario Waste Management Corporation should play a leadership role in a broad range of waste management issues to fully take advantage of its expertise and high profile. The Committee felt that promotion of waste reduction, reuse, recycling and resource recovery need not be divided arbitrarily into municipal and industrial sectors, and that OWMC could provide a focal point for a progressive philosophy for waste management in Ontario. Members indicated that they do not feel it necessary to have the treatment/disposal facilities in operation for OWMC to take a more vocal stance in all aspects of waste management planning.

ST. LAWRENCE PARKS COMMISSION

INTRODUCTION

The St. Lawrence Parks Commission was incorporated on March 31, 1955, as The Ontario-St. Lawrence Development Commission. The Ministry of Planning and Development, Province of Ontario, originally had jurisdiction over the Commission and now it is under the auspices of the Ontario Ministry of Tourism and Recreation. It is a corporation without share capital and it is classified as a Schedule No. 1 non-revenue retaining agency. The St. Lawrence Parks Commission (SLPC) must comply with the conditions set out by Management Board of Cabinet guidelines with respect to funding, management and administrative directives, support services and staff appointment procedures. As an operational agency, the SLPC's main role is to provide services to implement approved government policy and programs.

BACKGROUND

The St. Lawrence Parks Commission is located in southeastern Ontario and serves the residents of Ontario and visitors to the province in the delivery of recreational and historical interpretation services. The headquarters are situated 10 km east of Morrisburg, Ontario, with administrative offices at four locations in the system. The peak season extends from mid-May until mid-October.

The SLPC is a major playground for eastern Canada and includes 10,000 acres of parkland on the St. Lawrence River. There are 15 major day-use campsite areas and 2,500 camp and trailer sites, many of which have full services. The day-use areas are extensive including swimming at the beaches, golfing and hiking. The attractions include Old Fort Henry, Upper Canada Village, Wildfowl Sanctuary, Chrysler Maple Sugar Bush, Chrysler Park Marina, airstrip, riding corral, Upper Canada Golf Course and winter recreation. The facilities offered to the public are Adolphustown Park, Fairfield Park, The 1000 Islands Parkway, Ivy Lea Park, Brown's Bay Park, Grenville Park, Riverside-Cedar Park, Chrysler Farm Battlefield Park, Morrison and Nairne Islands, Farran Park, Long Sault Parkway, McLaren Campsite, Woodlands Park, Milles Roches Park, Lakeview Heights Park, Raisin River Park, Charlottenburgh Park and Glengarry Park.

According to the Ontario Ministry of Tourism and Recreation Estimates Briefing Book 1987/88, the SLPC has encouraged and promoted the tourist industry in eastern Ontario throughout the year for the economic benefits of the province with the following accomplishments:

- Selection of Old Fort Henry and the Fort Henry Guard, as one of the Top 100 Tourist Attractions in North America, by the National Tour Bus Association;
- Major commitment to the Commission's Five Year Capital Strategy aimed at enhancing attractions, with particular focus on improving the quality of experience derived by visitors to scenic parts, Upper Canada Village, Queen Elizabeth Gardens, Old Fort Henry, Battlefield Memorial Building and Crysler Park Marina;
- Renewal of programming at Historical Attractions exemplified by a new special event weekend, re-enacting a 19th century theatrical troupe, at Upper Canada Village and a sensory extravaganza incorporating the Kingston Symphony Orchestra and the Fort Henry Guard, at Old Fort Henry, highlighted by Tchaikovsky's 1812 Overture and a spectacular fireworks display;
- To encourage the preservation of Ontario heritage, built an 1860s horse-drawn mowing machine, commissioned two reproductions of early Canadian cookstoves and, utilizing historical methods, constructed a barn to be integrated into the historical programme;
- With Bell Canada, completed the construction of the 37 km St. Lawrence Bikeway, which will introduce a new client group into the local tourist economy. This paved bikeway will encourage the growing numbers of recreation-oriented tourists to enjoy the panoramic scenery synonymous with the 1000 Islands;
- Promoted the utilization and enjoyment of the facilities, by public-oriented, regional, national and international groups including: the Eastern Ontario Pleasure Driving Society's horse-drawn carriages, the Thousand Islands Kennel and Obedience Club - International Dog Show, the Modeleurs Marins du Quebec - Speed Boat Regatta, the Top Twenty-Five Mentor High School Choir from Mentor, Ohio - Performance and the American Antique Car Club gathering; and
- Initiated French Language training for staff to assist in providing tourists with a hospitable, enjoyable visit. The initiative augments the Commission's extensive ability to provide multi-language services which include Spanish, German and Italian in addition to English and French.

The SLPC's prime function is the direct provision of goods and services in order to implement approved government policy and programs. It is a Schedule 1 operational agency that is funded out of the Consolidated Revenue Fund; it is able to adhere to all management and administrative directives established by the Management Board; it has administrative-support services provided by the responsible ministry, unless the agency is of a sufficient size to be able to provide its own support services in a more

efficient and effective manner; and it appoints staff under the Public Service Act. Currently the SLPC provides a substantial proportion of its own administrative support services.

The Commission was originally established without a date for sunset review. The prerogative is based on mandatory legislation which states that there shall be an agency. Appointments are made by the Lieutenant-Governor-in-Council (Order-in-Council) and/or appointments are at the discretion of the Premier.

COMMISSION MANDATE AND POWERS

The Commission's original mandate was to preserve the history and prime recreational lands of southeastern Ontario. The mandate is unchanged in 1988 although management responsibilities have increased with its responsibilities for three historical sites, parks system and related facilities which include a bird sanctuary, golf course, marina, airstrip, sugar bush and gardens.

According to the Commission, its mandate is similar to those of the following agencies, although each has a distinct jurisdictional area and responsibilities:

- Parks Canada;
- Ministry of Natural Resources, Ontario Provincial Parks;
- Ministry of Culture and Communications, Heritage Conservation and Museums;
- Conservation Authorities; and
- various local historical societies.

The objectives of the St. Lawrence Parks Commission, according to the Commission's report, are as follows:

- to acquire, preserve, develop and maintain historic and recreational resources within the Commission's jurisdiction for the benefit of the people of Ontario and visitors of the Province;
- to operate to a high standard of excellence the Commission's resources and facilities for the educational and recreational enjoyment of its visitors;

- to encourage and promote the tourist industry in eastern Ontario on a year-round basis for the economic and social benefit of that region and the Province;
- to operate historic sites, camping facilities, marina facilities, golfing facilities and any other facilities or conveniences that enhance the Commission's heritage conservation, public education, recreation and tourism development objectives; and
- to do all things that are incidental or conducive to attainment of the objectives of the Commission.

According to the Commission, the primary goal and the objectives have been realized and their focus is now directed toward increasing the quality, effectiveness and efficiency on the operational side and to ensuring that the standards outlined in the objectives are maintained.

The general powers and duties of the Commission as set out in the St. Lawrence Parks Commission Act are to develop, control, manage, operate and maintain the Parks, and for the purposes of carrying out such duties the Commission has power:

- (a) to make such by-laws, rules and orders as may be considered expedient for the constitution of the commission and the administration and management of its affairs and the conduct of its business;
- (b) to acquire, construct, operate, maintain and generally manage and provide recreational facilities, restaurants, refreshment booths, stands for the sale of souvenirs and other wares, shops, sanitary and toilet facilities, buses and other vehicles for use in connection with the parks, boats and boat lines, camp sites and any and all other facilities or conveniences incidental to or necessary for the proper operation and maintenance of the Parks;
- (c) to make agreements with persons with respect to the establishment or operation by them of any works or services in connection with the Parks;
- (d) to operate and maintain a school for the training of apprentice gardeners; and
- (e) to receive and take from any person by grant, gift, devise, bequest or otherwise any property real or personal or any interest therein.

It is the duty of the Commission to investigate and inquire into any matter or subject affecting or incidental to the welfare of the municipalities in the counties of Glengarry, Stormont, Dundas, Grenville, Frontenac, Lennox and Addington, and Leeds, or any of them, or the inhabitants thereof as may be referred to the Commission by a member of the Executive Council or any such municipality or inhabitant, and the Commission may report thereon to such member, municipality or inhabitant or any of them. (R.S.O. 1970, c. 447, s. 5)

With the approval of the Lieutenant-Governor-in-Council, the Commission has power:

- (a) to acquire by purchase, lease or otherwise and with or without the consent of the owner enter upon, take and expropriate and sell or otherwise dispose of any land or any interest in land;
- (b) to construct or acquire by purchase, lease or otherwise and operate and maintain bridges over the St. Lawrence River. (R.S.O. 1970, c. 447, s. 6)

LEGISLATIVE AND REGULATORY FRAMEWORK

The legislative and regulatory framework within which the SLPC operates is defined in the following provincial acts and regulations.

The Commission is operated under the authority of the St. Lawrence Parks Commission Act, R.S.O. 1980, c. 486. In conjunction with the St. Lawrence Parks Commission Act, the following legislation applies to the SLPC: Legislative Assembly Act; Public Service Act; Ministry of Government Services Act; Expropriations Act; Public Transportation and Highway Improvement Act; Municipal Act; Motorized Snow Vehicles Act; Planning Act; Local Improvements Act; Public Officers Act; and Provincial Offences Act.

St. Lawrence Parks Commission Act is now administered by the Ministry of Tourism and Recreation (reference O. Reg. 136/82). The Minister of Tourism and Recreation is designated to administer the Act which encompasses the administration and all power and duties. The Act is a consolidation of amendments, inclusive from the Act to Incorporate The Ontario St. Lawrence Development Commission (1955).

St. Lawrence Parks Commission Act sets out the legal responsibilities of the Commission which include organization and structure, expenses, powers and duties,

liability, highway access, municipal by-laws authority, local improvement works with municipalities, security, audits, annual reports, permitted regulations, offences, etc. The pertinent sections of this Act are addressed in the relevant sections of this report.

Regulation 909, R.R.O. 1980, sets out the Commission's requirements with respect to the following:

- conduct of persons using the park;
- camping;
- moving permits;
- reservations;
- admission fees; and
- penalties for a breach of this regulation.

Regulation 909 includes all amendments up to O.Reg. 180/88 filed on March 31, 1988. O.Reg. 180/88 amends sections of Regulation 909 with respect to user-conduct, reservations and fees, etc.

STRUCTURE AND ORGANIZATION

The Commission is under the direction of 12 Commissioners, all of whom are appointed by the Government of Ontario. The number of members cannot exceed 15, and a minimum of three persons is required. Mr. G.N. Speal, Q.C., is the Chairperson and Mr. C.F. McInnis, the Vice-Chairperson. The Commissioners do not have a specified number of annual meetings and during the three-year period 1985-1987, the Commission held six, eight and nine meetings respectively.

The full complement of Commission employees including government appointees (management and Commissioners), classified staff and unclassified staff for the period 1985-1988 is as follows:

	<u>85/86</u>	<u>86/87</u>	<u>87/88</u>
Government appointees (General Manager)	1	1	1
Government appointees (Commissioners)	11	11	12
Classified staff	115	115	104
Unclassified staff (mostly seasonal)	640	639	620

MANAGEMENT AND OPERATIONS

The daily management of the SLPC is carried out by the General Manager, six Division Managers and the Manager of Old Fort Henry. The Division Managers have authority in the following areas: historic sites; finance and administration; maintenance and engineering services; marketing and communications services; merchandising parks and recreation; and human resources. The General Manager has the broad responsibility for all matters. The General Manager decides on the allocation of expenditures in consultation and on the advice of the Division Managers. Proposed expenditure allocations must receive approval before the Commission.

The Chairman of the SLPC introduced a new management policy in January 1987 that entails more public input in the administration. Mr. Speal announced a series of media conferences to outline what residents could expect in the 1988 programs. He described this new administrative approach in the following way according to press reports:

Nineteen eighty-seven has seen a more open decision-making process with more information to the public through press statements and meetings with municipal leaders and interest groups. In supporting this process, the commission has established a policy to advertise its public tenders at the level of \$25,000 and above.

In the latter stages of 1987, Commissioners and staff have prepared for the advent of the Freedom of Information Act and French Language Services Act.

With these changes we have acted to handle a number of public issues in the areas of regulation and usage of facilities. These include: Licensing of docking on Commission lands - the 1000 Islands Parkway area; Development pressures - 1000 Islands Parkway and Ault

Island; Length of stay in Commission parks for campers; Fee rates for visitors including special interest groups' cooperative management of Commission lands and the Osnabruck Township and Loyalist Parkway long-range planning concept.

We are providing new access to our disabled visitors and improving beaches throughout the system. Modernized washrooms in our parks and information centres, new museum attractions at Upper Canada Village, Fort Henry and Chrysler Park and improved seating and lighting for the popular Retreat Ceremony (at Kingston); all will add to visitor enjoyment.

Mr. Speal has initiated, with the senior staff, a five-year look at the programs entrusted to the Commission and in some cases hired consultants to provide a perspective beyond their own experiences. Included were reports on Chrysler Park Marina Facilities Upgrade Study and Enhancement of Visitor Enjoyment at Fort Henry. He sees the consultants raising new issues as well as providing an analysis of what the Commission is doing.

The Commission has an important job to do in eastern Ontario in tourism. We are employers, providers of high-quality recreational programs and experience at our historic sites that help visitors understand our rich past and appreciate the present and prepare for the future.

We are custodians of lands and historical properties and the facilities we manage provide support to the other components of tourism and heritage preservation. A significant and challenging opportunity . . . for 1988.

The following Division responsibilities were reported in the 1986 Annual Report. This summary does not include projects for the 1986-1988 period and generally gives an overview but it is not exhaustive.

Finance and Administration Division

- Formerly two separate divisions, but now consolidated.
- A new computerized management information system integrated with a new budget preparation process.
- The budget planning process information is now open to all levels of the SLPC.

Human Resources Division

- Special projects in 1986 included the Employee Orientation Manual for SLPC; a new Performance Management record of goals, career direction and performance assessment; implementation of a new classification system for office-related staff; accelerated French-language and computer training; and the development of a recruitment bulletin for the Commission's employees.

Maintenance and Engineering Services Division

- The integration of the Horticultural Section from the Parks Operations, the Maintenance Section from Upper Canada Village and the Central Stores from Administrative Services into Maintenance and Engineering Services.
- Special capital projects included the upgrading and expansion of electrical services at Crysler Park Marina in cooperation with the Ministry of Government Services.
- The construction of a 36 km recreational path along the 1000 Islands Parkway, planned for 1987, was a joint venture between the SLPC and Bell Canada. The path was to be constructed over Bell's telephone cable trench.

Merchandising, Parks and Recreation

- Merchandising was recently amalgamated with parks and recreation.
- The ongoing management of the operational revenue-generating facilities include the retail gift shops (Upper Canada Village, Old Fort Henry, Crysler Park Marina, Upper Canada Golf Course and the camping and day-use parks).
- The administration includes the facilities listed above and also the Upper Canada Migratory Bird Sanctuary, Crysler Park Airstrip, Crysler Park Maple Sugar Bush and the Crysler Farm Battlefield Park.
- The Harvest Barn Restaurant was opened in Upper Canada Village in August 1986. There is a 10 year private contract to operate the Harvest Barn Restaurant, the Canada West Lounge and Restaurant, Willard's Hotel and the Village Tea Garden.
- The Upper Canada Migratory Bird Sanctuary is operated by the SLPC and the Ministry of Natural Resources. It includes 1,400 hectares of wooded uplands, marshland, waterways, etc. The Sanctuary is used by hikers and has activities such as nature tours.
- The Crysler Park Maple Sugar Bush is operated by the SLPC and is a popular recreational activity.
- The Crysler Farm Battlefield Park is a 20 hectare site with facilities which include pioneer memorials, horticultural garden, etc.
- The Queen Elizabeth Gardens are constantly in the process of being improved.

- The camping grounds include 13 sites and three day use parks (including Fairfield Historical Park) and two parkways (Long Sault and 1000 Islands Parkways).

Historic Sites

- The Historic Sites division administers the historic component and manages major attractions which include Upper Canada Village and Old Fort Henry and Fairfield House in the Fairfield Historical Park.
- Upper Canada Village has special events, an education department, village interpretation programs, a registrar and library, maintenance and restoration department, a fire and security department and an administrative office.
- Old Fort Henry has the Fort Henry Guard which performs military manoeuvres, the Quarter-master's Stores, the Fort Museum, education programming, tours, an administration office and maintenance responsibilities.
- Fairfield Historical Park is a recreational site and an historical programme which includes tours and special events.

Marketing and Communications Services

- This division provides internal communication services, public relations and coordination for an advertising media plan. It includes a bilingual audio-visual presentation.
- The SLPC is promoted by staff with the assistance of an outside consultant throughout Canada. This programme includes attendance at information conferences by SLPC staff, and marketing strategies have been developed.

BUDGET AND FINANCES

The SLPC funding comes from the Consolidated Revenue Fund through estimates and it does not generally receive government grants, although in 1983 the provincial Board of Industrial Leadership and Development approved a capital grant of \$800,000 for the improvement and construction of exhibits, stores, food facilities and support services. As discussed in the Management and Operations section of this report, the allocation of expenditures is determined by the General Manager with input from the Division Managers. The proposed allocations are decided on by the Commission and the approved budget considered by the Ministry of Tourism and Recreation, followed by a vote in the Legislature with the Ministry of Tourism and Recreation budget.

According to a statement by the SLPC to the Committee in July 1988, the current level of funding has presented limitations.

The present level of funding is providing adequate resources for maintaining current program areas only. This funding level however is not sufficient to provide for program enhancement or expansion. This combined with increasing needs and expectations of the travelling public is making it increasingly difficult to meet our objectives in a manner satisfactory to the public.

Chronic under-funding has led to a long-term capital deficiency which needs to be addressed in the coming years. Without increased capital funding the SLPC will be unable to provide the necessary facilities and continue to meet its goal and objectives.

In addition, with recent constraints imposed, some program areas will see a decrease in the number of hours of service provided to the public. This reduces our ability to meet our objectives.

The Chairman's salary is set at a per diem allowance of \$200. Salary, travel and related expenses in the line of Commission responsibilities, which includes meetings, are permitted up to but not to exceed the sum of \$15,000 annually. The Vice-Chairman's salary is based on a per diem of \$150 and including travel and Commission responsibilities does not exceed \$10,000 annually. Commissioners are subject to some expense conditions and have a per diem allowance of \$100 and including expenses of \$5,000 annually.

The Ontario Ministry of Tourism and Recreation Estimates Briefing Book 1987/88 listed the following estimates for the SLPC:

<u>1987/88</u> <u>Estimates</u>	<u>1986/87</u> <u>Estimates</u>	<u>Actual Expenditure</u> <u>1986/87</u>
\$14,044,100	\$11,561,000	\$13,002,201

The actual expenditure figure for 1986/87 is 12.5 percent above the estimate (\$1,441,201). The 1987/88 estimates increase is 21.5 percent (\$2,483,100) above the previous year's estimates.

The following financial analysis from the Ministry of Tourism and Recreation's Estimates Briefing Book 1987/88 accounts for the differential between the 1986/87 and 1987/88 estimates. The number of full-time positions (total 120) has not increased.

Salaries and Wages (including benefits)	\$423,200 561,000 <u>(185,900)</u> 798,300	Salary revisions. Increase in seasonal staff funding. Reallocation of Ministry resources.
Supplies & Equipment	345,800	Inflationary allowance for supplies and cost increases for saleable merchandise inventory.
Acquisition/ Construction of Physical Assets	1,339,000	Additional capital funding for various projects to improve the Commission's parks and recreational facilities.
TOTAL	<u>2,483,100</u>	

It was pointed out by the Commission that the following expenses do not include those services provided by various ministries of the Province of Ontario listed below:

- Expenditure Accounting System and Reports, and paying of invoices (Ministry of Industry, Trade and Technology);
- Unclassified Payroll Processing (Ministry of Natural Resources);
- Classified Payroll Processing (Ministry of Government Services).

Expenditures

	<u>85/86</u>	<u>86/87</u>	<u>87/88</u>
Salaries and Benefits	\$8,713,270	\$9,345,357	\$9,845,420*
Transportation and Communications	\$252,499	\$284,141	\$262,946*
Services	\$1,403,005	\$894,159	\$1,026,276*
Supplies and Equipment	\$1,991,192	\$1,882,811	\$1,938,801*
Capital	\$502,794	\$553,697	\$1,450,851*
Grants to municipali- ties in lieu of taxes	\$23,635	\$23,635	\$21,911*
TOTAL	\$12,886,395	\$12,983,800	\$14,546,205*

*Unaudited (1987/88)

ACCOUNTABILITY AND CONTROL

The relationship with the Government is based on the directives of the Ministry of Tourism and Recreation on which it operates. It therefore takes its direction from the Ministry and its estimates are considered by the Ministry prior to approval by the Legislature. The SLPC and its divisions have a series of internal operating manuals which the Commission uses to ensure uniform administrative practices for each program area.

The Commission does not have a Memorandum of Understanding with the Ministry of Tourism and Recreation although negotiations have taken place and are continuing according to the July 1988 statement to the Committee by the SLPC. In response to the recommendation in the Provincial Auditor's Report of March 31, 1988, a Memorandum of Understanding was drafted by the Commission for consideration by the Ministry of Tourism and Recreation. According to the Commission, the major outstanding issues preventing an agreement relate to the following issues:

- revenue retention with regard to retail outlets operated by the SLPC in which only net revenue would be deposited to the Consolidated Revenue Fund as opposed to the gross revenue of retail operations; and
- authority levels and policy development within the Commission.

The unaudited July 7, 1988 SLPC financial statement is as follows:

	<u>1987</u>	<u>1988</u>	<u>% change 1987 & 1988</u>
Receipts	4,369,448	4,673,226	6.95 (\$303,778)
Disbursements	12,983,800	14,546,205	12.03 (\$1,562,405)
Excess of disbursements over receipts	<u>\$8,614,352</u>	<u>\$9,872,979</u>	14.61 (\$1,258,627)

The St. Lawrence Parks Commission Act (s. 15) establishes that the books and records of the Commission shall be examined by the Provincial Auditor or another auditor as designated by the Lieutenant Governor in Council.

The Annual Report of the Provincial Auditor of Ontario for the year ended March 31, 1987 addressed the potential for savings in administration costs by the Commission. The observations and conclusions reached were as follows:

- receipts for the 1987 fiscal year were \$4.4 million and disbursements totalled \$13 million;
- by eliminating some functions in administrative areas, salaries and benefits could be reduced by approximately \$430,000; and
- by closing certain attractions during the last few uneconomical weeks of the operating season an additional savings in excess of \$200,000 could be achieved.

According to the Provincial Auditor, in the 1987 fiscal year the Commission employed 116 permanent and 642 seasonal staff during the peak period of its operations and expenditures for salaries and benefits amounted to \$9.4 million.

The Provincial Auditor identified the two main issues of excessive administration expenses and the potential benefits from shortening the operating season and concluded as follows:

- The Commission could reduce administration salaries and benefits by approximately \$430,000 over the next year through a reduction of the ratio of administrative salaries to expenses.
- A comparison of the SLPC and the Niagara Parks Commission (NPC) demonstrated that administration salaries to revenue figures were 26.7% and 3.1% for the SLPC and NPC respectively and 9.4% to 3.8% for administration salaries to expenses.
- The Provincial Auditor noted the Commission was aware of a duplication of effort in a number of administrative areas such as payroll, accounts payable, purchasing, revenue, etc. This duplication resulted from the Commission operating two similar administration offices; the central Finance and Administration Division (head office) located in Morrisburg and the Merchandising, Parks and Recreation Division located in the Administration building at the Upper Canada Village.
- The Commission, according to the Provincial Auditor, has budgeted \$900,000 over the next three years to renovate the old restaurant building at the Upper Canada Village for the amalgamation of both offices.
- The Provincial Auditor was informed that a review of administration staffing needs by the Commission will be carried out upon amalgamation of the administrative offices.

The Chairman of the Commission responded to the comments of the Provincial Auditor with respect to centralizing and streamlining the administration and acknowledged the targets for downsizing the Commission's administration in an effort to address excessive administration expenses.

AGENCY REVIEWS

The SLPC has not appeared before a provincial committee in the past three years and the most recent agency review was conducted in 1978 by the Standing Procedural Affairs Committee on Agencies, Boards and Commissions. The Committee's review of the SLPC concluded that within its mandate it has been performing effectively. Nevertheless it was noted that because of the elongated shape of the Commission's land holdings any further growth or extension of the SLPC would not be administratively rational or cost effective. The Committee recommended in its 1978 report that the St. Lawrence Parks Commission should continue in its present form.

The Standing Committee on Procedural Affairs' Report on Agencies, Boards and Commissions (No. 9) of November 1984 concentrated on several issues in its review of the Niagara Parks Commission. The Committee at that time considered the management and operational standards and performance levels achieved, the maintenance of goals and objectives, financial status and standards of public service. It was recommended that steps should be taken to preserve the financial self-sufficiency attained by the Niagara Parks Commission (NPC) and that consideration should be given to the establishment of a review procedure for NPC decisions which could have a major impact on neighbouring private sector operators. Of particular interest were NPC capital projects and the potential direct or indirect impact on the private sector. Finally, the NPC police force enforces the NPC rules and regulations, but it had a limited mandate which required the assistance of Regional and Provincial forces as well as federal authorities. It was recommended that a review of the terms of reference of the NPC police force be undertaken in order to resolve coordination problems for the forces (OPP, RCMP, Niagara Regional Police Force and the customs and immigration personnel).

RECOMMENDATIONS

The Committee had the opportunity to meet with the Commissioners and several officials of the St. Lawrence Parks Commission on location during August and September 1988.

The members visited several of the facilities and discussed the operation of the parks and historic sites with Commission employees. A meeting with representatives of the 1000 Islands Area Residents' Association offered another perspective on the various issues of concern to the residents living along this corridor of land. Officials with the Ministry of Tourism and Recreation appeared before the Committee to clarify matters relating to the Committee's interests with respect to operations, marketing and the Auditor's Report.

Management

The St. Lawrence Parks Commission has several divisions responsible for areas of management which include human resources; finances and administration; maintenance and engineering services; merchandising, parks and recreation; historic sites and marketing and communications. The range of management issues is diverse given that management oversees several different types of facilities which extend over a large geographical area.

The Committee is of the opinion that the Commission's management responsibilities are very complex and are becoming progressively more difficult to manage. In order to rationalize the current range of management tasks, the members agree that it is necessary to reduce the total number of facilities within the Commission. The criteria used to determine which facilities could be withdrawn from the Commission's responsibility and transferred to another body should take into account the Commission's mandate. The financial commitment and management responsibilities should be studied for each of the properties, beginning with Fairfield House and Fairfield Historical Park, Gutzeit House and Adolphustown Park, with the objective of decreasing the total number of properties.

The Committee therefore recommends that:

1. **The St. Lawrence Parks Commission review its current management responsibilities for properties with the objective of decreasing the Commission's responsibilities. Fairfield House and the Fairfield Historical Park; Gutzeit House and Adolphustown Park and Campsite should be considered initially in this assessment.**

Furthermore, the Committee appreciates the challenge of managing land holdings of this scale and it urges the Commission to coordinate its activities wherever possible with those of provincial ministries in the area, particularly for Commission-owned properties.

Revenues and Expenditures

The Committee acknowledged that the Standing Committee on Public Accounts whose terms of reference it is "to review and report to the House its observations, opinions and recommendations on the Report of the Provincial Auditor and the Public Accounts," recently reported on the Auditor's assessment of the Commission. The Standing Committee on Public Accounts has addressed the Provincial Auditor's observations and therefore the Standing Committee on Government Agencies will comment on these matters taking this into account.

The Annual Report of the Provincial Auditor for the year ended March 31, 1987 addressed several issues in its review of the St. Lawrence Parks Commission. The Auditor's observations identified "excessive administration expenses and the potential benefits from shortening the operating season." The Auditor's observations suggested ways to reduce administrative costs which included a review of the length of the operating season and eliminating some administrative functions. Members of the Committee recognize the costs entailed in the operation of a facility on the scale of the Commission, nevertheless it is the Committee's opinion that the financial statements, attendance figures and the Provincial Auditor's conclusions must be addressed in the effort to reduce expenditures while taking into account current revenues. The Chairman of the Commission responded to the Auditor's Report on October 14, 1987 and the Committee recognizes the efforts made to redress these problems. Nevertheless the Committee has concluded that continuing efforts are required through adjustment initiatives leading to deficit reductions and that the Commission should become financially self-sustaining.

The Committee therefore recommends that:

2. **Following from the Provincial Auditor's March 1987 Annual Report, that the Commission continue to address deficit reduction. The Commission should report to the Standing Committee on Government Agencies on this subject at the end of the next operating season, by which time the Commission should have established a target date for becoming financially self-sustaining.**

The Committee has concluded that expenditures such as the grounds maintenance budget for grass cutting could be reduced. Alternatives to the manicured lawns could include the reforestation of selected areas at a distance from the shoreline, thereby not obstructing the scenic views.

The Committee therefore recommends that:

3. **The Commission evaluate its landscape/grounds maintenance program with the objective of reducing the total grass cutting maintenance costs, through the introduction of more "natural areas" and/or reforestation.**

The St. Lawrence Parks Commission is classified as a Schedule 1 non-revenue retaining agency. The Commission has expressed concern about current practices and requirements of the Consolidated Revenue Fund which in the Commission's view places financial restrictions on the operation of stores as it is reportedly difficult to maintain acceptable inventory levels due to cash flow restraints. The Commission has expressed the view that a "Retail Inventory Funding System" would permit it to temporarily retain revenues from retail sales in order to purchase inventory from revenues held by the Commission.

The Committee therefore recommends that:

4. **A Retail Inventory Funding System should be considered for the retail operations, which would permit the Commission to temporarily retain revenues from sales for the purpose of maintaining acceptable inventory levels.**

The Auditor's report was a major concern in the Committee's deliberations, particularly receipts and disbursements. The members are of the opinion that the user fees do not accurately reflect the benefit of the facilities and that discounted rates for senior citizens which includes U.S. citizens, for example, should be reconsidered.

The Committee therefore recommends that:

5. **The Commission consider adjusting its fee structure for Canadians and U.S. citizens, including senior citizen rates, to more accurately reflect the market value of the facilities and direct operational costs.**

Commission's Mandate

The Commission's mandate should be explained with respect to "social responsibilities." The Chairman of the Commission has referred to the social and economic mandate as being critical in any analysis of how the Commission functions.

The Commission has notified the Committee as follows, that the social responsibility of the Commission in the context of the St. Lawrence Parks Commission Act has been requested by the Public Accounts Committee and is currently under review. The results of this review will be forwarded to the Standing Committee on Government Agencies upon completion according to the Commission.

An elaboration on the Commission's mandate should be taken into account in any assessments of the Commission's revenues and expenditures.

The Committee therefore recommends that:

6. **The Commission explain its "social responsibility" within its mandate, and in conjunction with the Memorandum of Understanding when completed.**

The Commissioners

During the Committee's site visit, the members were made aware of some of the concerns of the local residents, particularly in a meeting with the 1000 Islands Area Residents' Association. Although relations between the Commission and the surrounding municipalities are seen to be positive, the members expressed the view that the relationship between the Commission and local governments could be enhanced if elected representatives from the adjoining municipalities were given an allocation of positions as Commissioners. At the present time, one Commissioner is also an elected municipal official. It is felt by the Committee that this approach would assist in enhancing relations between the Commissioner and area municipalities initially in providing local representatives with a forum for official discussions of local issues on a permanent basis and a role in the operations of the Commission.

The Committee therefore recommends that:

7. **The Commission consider the feasibility of having elected representatives from the adjoining municipalities serve on the Commission in a specified number of positions.**

Marketing

The Commission's marketing strategy has promoted the various attractions for markets in close proximity to the facilities. In 1989 the Commission's program is to market attractions as a package with attention to the Quebec market, bus tours and the local communities. The members of the Committee are of the opinion that the full potential of the SLPC facilities is not being utilized at the present time and that a new marketing approach should be considered taking into account the total number of visitors and the current attendance for each facility in the system.

The Committee therefore recommends that:

8. **The Commission's marketing strategy should be reconsidered with the objective of enhancing tourism, particularly from the heavily populated areas, such as central Ontario.**

In the Committee's review of the marketing strategy, the matter of advertising through signs was addressed. The Committee has noted, as outlined by the St. Lawrence Parks Commission, that both Upper Canada Village and Old Fort Henry received additional signage on secondary roads in 1988. The present "attractions signing policy" of the Ministry of Transportation precludes additional Highway 401 signing.

The Commission reported to the Committee that it has asked for additional signage on the Highway 401 right-of-way several kilometres, in advance of the exits to the historic sites, to promote the attractions to passing motorists. In addition, the St. Lawrence Parks Commission has asked for signage to advise motorists that the 1000 Islands Parkway is a scenic route which rejoins Highway 401, 36 kms later.

The Committee members are of the opinion that alternative signage options should be considered.

The Committee therefore recommends that:

9. **The Commission should meet with Ministry of Transportation officials to discuss alternative signage options to assist in the Commission's marketing strategy on provincial roads.**

The Private Sector

The private sector has been active in several ways on Commission property which includes concessionaries selling firewood and recreation facilities (paddleboats, miniature train and riding stables). Food service concessions as well as the contracts for the Crysler Park area, Upper Canada Village and the Upper Canada Golf Course operate on an independent basis.

The Committee is of the opinion that the small picturesque communities along the park system are an important tourist attraction and therefore a valuable economic resource for the region. If these historic villages were strongly promoted they could provide enhanced economic opportunities for the residents currently employed in the tourist industry and for new business ventures, particularly in retail sales for local arts and crafts, restaurants, bed and breakfast accommodation and specialty shops.

In order to protect the unique character of these communities, it may be necessary in the future to undertake urban design and transportation plans. The planning process would respect the integrity of the existing residential and commercial areas and would outline orderly development for the future, which could include a reassessment of the Parkway alignment, parking areas, bicycle paths and walkways.

The Committee has concluded that enhanced participation by the private sector should be encouraged. Considerable land holdings of the Commission are seriously under-utilized in many instances and could be considered for private sector development on a lease basis.

The Committee therefore recommends that:

10. **The Commission should give consideration to call for private sector development proposals for sites with significant tourism potential.**

Furthermore, the Committee has considered the financial matters raised by the Auditor and the members have noted that some facilities are in need of upgrading and maintenance programs.

The Committee therefore recommends that:

11. **The question of private sector involvement in development and/or operation of properties and facilities owned by the Commission should be carefully considered. Budgetary restraints have limited the Commission's ability to improve or upgrade certain facilities (e.g., campgrounds without showers) and the possibility of allowing private sector operations, through lease tenders, should be considered.**

Planning

During the Committee's site visit to the St. Lawrence Parks Commission, members raised questions about the future planning and development along the 1000 Islands Parkway. The Committee recognizes the integral role of the Parkway in the overall plan of the Commission's lands and the degree to which its integrity has been maintained. Nevertheless, the members feel that the beauty of the Parkway could be enhanced with improved views of the St. Lawrence River and the development of new scenic "look-out points."

The Committee therefore recommends that:

12. **A selective cutting and landscaping program be undertaken to develop additional scenic vistas of the St. Lawrence River. Also, consideration should be given to the development of additional "look-out points" on government and/or Commission-owned lands.**

The Committee urges the Commission to coordinate its activities with those of provincial ministries in the use and/or development of Commission properties.

Interpretive Program

The Committee had the opportunity to experience segments of the interpretive program, to discuss the Commission's approach to the historical period depicted and to view the artifacts used in these programs. The members have been advised that there are historical pieces owned by the Commission which are in storage and do not fit within the interpretive programs on display. The members feel that any artifacts currently in storage should be placed on public display, understandably separate from displays defined by a specific historical period.

The Committee therefore recommends that:

13. **The Commission consider displaying its post-1867 artifacts from its collection, taking into account existing historical interpretive themes and guidelines, and Commission policies.**

Crysler Park Marina

The Chrysler Park Marina has been the subject of a consultant's report and its future development is of interest to the Committee. At issue is whether or not this facility can make a positive contribution to the St. Lawrence Parks Commission, and more generally to the regional economy. The Committee recognizes the potential of the site, but the broader issue of marketability and the required expenditures are of critical

importance in assessing the feasibility of the marina. The members believe that a precise course of action is required to fully utilize this facility and that ultimately the objective is to encourage and facilitate the development for an attractive and profitable marine facility on this site.

The Committee therefore recommends that:

14. The operation, management and marketability of Chrysler Park Marina be assessed and defined in a specific strategy and management plan within a year of the release of this report.

III.

LIST OF RECOMMENDATIONS

The Committee therefore recommends that:

ADVISORY COUNCIL ON OCCUPATIONAL HEALTH AND OCCUPATIONAL SAFETY

1. Council continue its role of advising the Minister of Labour about occupational health and safety issues with Council increasingly setting its own agenda within the framework of its mandate. Where appropriate, Council should strongly emphasize its concerns to the Minister as it did in its advisory memorandum on consultation.
2. Council set up a task force to study health and safety in the agriculture sector and prepare advice for the Minister of Labour.
3. Council increase the number of representatives on its Task Force on Small Business by adding one or two others from the small business community.
4. Council consider the merits of broadening the mix of representatives on Council to include members of the small business and agriculture sectors and prepare ministerial advice to that effect.
5. Staff of the Advisory Council should continue to closely monitor Hansard for reference to tabled Legislative Committee Reports relevant to the ongoing work of the Council.

ONTARIO WASTE MANAGEMENT CORPORATION

1. The Standing Committee on Public Accounts review the financial management of the Ontario Waste Management Corporation.
2. The Provincial Auditor examine the affairs of the Ontario Waste Management Corporation on an annual basis with emphasis on expenditures for services to the Corporation.
3. The Ontario Waste Management Corporation adopt a policy to provide prompt emergency cleanup expertise and assistance for spills that may occur during delivery of wastes to its treatment/disposal facilities.

4. The Ontario Waste Management Corporation communicate to the Ministry of the Environment measures based upon its experience and expertise to further ensure the safety and security of all hazardous waste storage sites until such time that these wastes can be transported to an approved treatment/disposal facility.

ST. LAWRENCE PARKS COMMISSION

1. The St. Lawrence Parks Commission review its current management responsibilities for properties with the objective of decreasing the Commission's responsibilities. Fairfield House and the Fairfield Historical Park; Gutzeit House and Adolphustown Park and Campsite should be considered initially in this assessment.
2. Following from the Provincial Auditor's March 1987 Annual Report, that the Commission continue to address deficit reduction. The Commission should report to the Standing Committee on Government Agencies on this subject at the end of the next operating season, by which time the Commission should have established a target date for becoming financially self-sustaining.
3. The Commission evaluate its landscape/grounds maintenance program with the objective of reducing the total grass cutting maintenance costs, through the introduction of more "natural areas" and/or reforestation.
4. A Retail Inventory Funding System should be considered for the retail operations, which would permit the Commission to temporarily retain revenues from sales for the purpose of maintaining acceptable inventory levels.
5. The Commission consider adjusting its fee structure for Canadians and U.S. citizens, including senior citizen rates, to more accurately reflect the market value of the facilities and direct operational costs.
6. The Commission explain its "social responsibility" within its mandate, and in conjunction with the Memorandum of Understanding when completed.
7. The Commission consider the feasibility of having elected representatives from the adjoining municipalities serve on the Commission in a specified number of positions.

8. The Commission's marketing strategy should be reconsidered with the objective of enhancing tourism, particularly from the heavily populated areas, such as central Ontario.
9. The Commission should meet with Ministry of Transportation officials to discuss alternative signage options to assist in the Commission's marketing strategy on provincial roads.
10. The Commission should give consideration to call for private sector development proposals for sites with significant tourism potential.
11. The question of private sector involvement in development and/or operation of properties and facilities owned by the Commission should be carefully considered. Budgetary restraints have limited the Commission's ability to improve or upgrade certain facilities (e.g., campgrounds without showers) and the possibility of allowing private sector operations, through lease tenders, should be considered.
12. A selective cutting and landscaping program be undertaken to develop additional scenic vistas of the St. Lawrence River. Also, consideration should be given to the development of additional "look-out points" on government and/or Commission-owned lands.
13. The Commission consider displaying its post-1867 artifacts from its collection, taking into account existing historical interpretive themes and guidelines, and Commission policies.
14. The operation, management and marketability of Chrysler Park Marina be assessed and defined in a specific strategy and management plan within a year of the release of this report.

APPENDIX A

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Terms of Reference

Standing Order 90 (f)

Standing Committee on Government Agencies which is empowered to review and report to the House its observations, opinions and recommendations on the operation of all agencies, boards and commissions to which the Lieutenant Governor in Council makes some or all of the appointments, and all corporations to which the Crown in right of Ontario is a majority shareholder, such reviews to be made with a view to reducing possible redundancy and overlapping, improving the accountability of agencies, rationalizing the functions of the agencies, identifying those agencies or parts of agencies which could be subject to sunset provisions, and revising the mandates and roles of agencies;

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Schedule of Hearings

Monday, 22 August 1988

2:00 p.m.

From the Advisory Council on
Occupational Health and
Occupational Safety:

Dr. Dennis R. McCalla
Chairman

Virginia Biggar
Executive Co-ordinator

Dr. Penny Chan
Research Officer

Tuesday, 23 August 1988

10:00 a.m.

From the Advisory Council on
Occupational Health and
Occupational Safety:

Dr. Dennis R. McCalla
Chairman

Virginia Biggar
Executive Co-ordinator

Dr. Penny Chan
Research Officer

Wednesday, 24 August 1988

10:00 a.m.
and
2:00 p.m.

From the Ontario Waste
Management Corporation:

Dr. Donald Chant
Chairman and President

Michael Scott
Director of Communications

Lorne Bentley
Director of Administration
and Finance

Susan Austin
Executive Assistant
to the President

Thursday, 25 August 1988

10:00 a.m.
and
2:00 p.m.

From the Ontario Waste
Management Corporation:

Dr. Donald Chant
Chairman and President

Michael Scott
Director of Communications

Lorne Bentley
Director of Administration
and Finance

Susan Austin
Executive Assistant
to the President

Tuesday, 30 August 1988

8:30 a.m.

From the St. Lawrence
Parks Commission:

George N. Speal, Q.C.
Chairman

Robert Mitton
General Manager

Mary Robertson
Secretary

John Cottrill
Planning and Development
Officer

Wednesday, 31 August 1988

8:30 a.m.

From the 1000 Islands Area
Residents Association:

Patricia Fleming
President

Robert MacGregor
Past President

From the St. Lawrence
Parks Commission:

John Cottrill
Planning and Development
Officer

Thursday, 1 September 1988

8:00 a.m.

From the St. Lawrence
Parks Commission:

George N. Speal, Q.C.
Chairman

Mary Robertson
Secretary

John Cottrill
Planning and Development
Officer

APPENDIX C

Agencies, Boards and Commissions reviewed to date

1st Review: (9 November 1978)	Waste Management Advisory Board Pesticides Advisory Committee Ontario Food Council Agricultural Research Institute Alcoholism and Drug Addiction Research Foundation Ontario Institute for Studies in Education Education Relations Commission Farm Machinery Board Land Compensation Board of Ontario Milk Commission of Ontario Cream Producers' Marketing Board St. Lawrence Parks Commission Ontario Council for the Arts Ontario Heritage Foundation
2nd Review: (3 December 1979)	Ontario Research Foundation Ontario Telephone Service Commission Ontario Housing Corporation Ontario Food Terminal Board Ontario Council of Health Ontario Municipal Board
3rd Review: (2 December 1980)	Ontario Educational Communications Authority Ontario Lottery Corporation Board of Ophthalmic Dispensers Ontario Labour Relations Board Ontario Northland Transportation Commission Liquor Control Board of Ontario
4th Review: (19 November 1981)	Ontario Racing Commission Ontario Hockey Development Committee Farm Pollution Advisory Committee Ontario Place Corporation
5th Review: (11 May 1982)	Ontario Board of Censors Ontario Energy Board Ontario Police Commission Toronto Area Transit Operating Authority
6th Review: (7 December 1982)	Art Gallery of Ontario Civil Service Commission Commission on Election Contributions and Expenses Ontario Mortgage Corporation Wolf Damage Assessment Board

7th Review: Criminal Injuries Compensation Board
(15 December 1983) The Law Society of Upper Canada
Ontario Cancer Treatment and Research
Foundation
Ontario Manpower Commission
Ontario Status of Women Council

8th Review: Alcohol and Drug Addiction Research Foundation
(21 June 1984) Board of Funeral Services
Board of Parole
Board of Visitors of Homewood Sanitarium,
Guelph
Crop Insurance Commission of Ontario
Game and Fish Hearing Board
IDEA Corporation
Nursing Homes Review Board
Social Assistance Review Board

9th Review: Animal Care Review Board
(19 November 1984) Children's Services Review Board
Niagara Parks Commission
Niagara Falls Bridge Commission
Ontario International Corporation
Ontario Junior Farmer Establishment Loan
Corporation

10th Review: Assessment Review Board
(25 September 1985) Fire Code Commission
Geoscience Research Review Commission
Health Disciplines Board
Languages of Instruction Commission of Ontario
Licence Suspension Review Board
Liquor Licence Board of Ontario
Ontario Drainage Tribunal
Selection Panel (Ontario Graduate Scholarships)
Travel Industry Compensation Fund Board of
Trustees

11th Review: Canadian National Exhibition Association
(7 January 1986) James Bay Educational Centre
Board of Management of the Guild
Metropolitan Toronto Convention Centre
Corporation Board of Directors
Minaki Lodge Resort Limited and Minaki
Development Company Limited
Old Fort William Advisory Committee
Ontario Economic Council
Ontario Human Rights Commission
Ontario Stock Yards Board
Toronto Stock Exchange Board of Directors

12th Review: (12 February 1987)	Ontario Advisory Council on Multiculturalism and Citizenship Ontario Arts Council Ontario Development Corporations Ontario Land Corporation Ontario Lottery Corporation
13th Review: (24 July 1987)	Agricultural Council of Ontario Liquor Control Board of Ontario Ontario Northland Transportation Commission Pesticides Advisory Committee
14th Review: (28 June 1988)	Civil Service Commission Pension Commission of Ontario Ontario Food Terminal Board Ontario Securities Commission
15th Review: (February 1989)	Advisory Council on Occupational Health and Occupational Safety Ontario Waste Management Corporation St. Lawrence Parks Commission

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Standing Committee on Government Agencies

Report on Agencies, Boards
and Commissions (No. 16)



STANDING COMMITTEE ON
GOVERNMENT AGENCIES



COMITE PERMANENT DES
ORGANISMES GOUVERNEMENTAUX

LEGISLATIVE ASSEMBLY
ASSEMBLÉE LÉGISLATIVE

TORONTO, ONTARIO
M7A 1A2

The Honourable Hugh Edighoffer, M.P.P.,
Speaker of the Legislative Assembly

Sir,

Your Standing Committee on Government Agencies has the
honour to present its 16th Report and commends it to the
House.

Allan K McLean
Allan McLean, M.P.P.
Chairman

Queen's Park
December 1989

STANDING COMMITTEE ON GOVERNMENT AGENCIES

MEMBERSHIP AS OF DECEMBER, 1989

ALLAN McLEAN
Chairman

MICHAEL BREAUGH

MARGARET MARLAND

MICHAEL FARNAN

BRAD NIXON

ED FULTON

BRUCE OWEN

TARAS KOZYRA

ALAN POPE

TONY LUPUSELLA

LARRY SOUTH

HAROLD BROWN
Clerk of the Committee

ALISON DRUMMOND
Research Officer

ANDREW McNAUGHT
Research Officer

VICTOR NISHI
Research Officer

JERRY RICHMOND
Research Officer

COMITÉ PERMANENT DES ORGANISMES GOUVERNEMENTAUX

COMPOSITION DU COMITÉ EN DÉCEMBRE 1989

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I. INTRODUCTION

Under Standing Order 90(f) the Standing Committee on Government Agencies is given the mandate to review the operation of all agencies, boards and commissions of the Government of Ontario. The Committee is empowered to make recommendations on such matters as the redundancy of agencies, their accountability, whether they should be sunsetted and whether their mandate and roles should be revised.¹

In accordance with its terms of reference, the Committee decided to review the operation of the following agencies:²

Ontario Environmental Assessment Advisory Committee
 Psychiatric Review Board
 Royal Ontario Museum Board of Trustees
 Stadium Corporation of Ontario Limited
 Ontario French Language Services Commission
 Rent Review Hearings Board.

The Committee's public hearings began in March 1989 and continued through August, 1989. During its hearings the Committee heard testimony from the representatives of the agencies, the responsible ministry, and members of the community. The Committee wishes to express its appreciation to all the witnesses who presented their views.³

In addition, the Committee wishes to acknowledge the cooperation of the officials of the various ministries of the Government of Ontario and the agencies themselves.

¹See Appendix A for the complete text of S.O. 90(f). Note: Amendments to the Standing Orders became effective October 9, 1989. The mandate of the Committee is now set out under S.O. 104(g).

²See Appendix C for a list of agencies reviewed by the Committee since 1978.

³See Appendix B for a list of witnesses who appeared before the Committee.

Finally the Committee wishes to express its appreciation to the Clerks of the Committee and the Research Officers for their assistance and dedication to the work of the Committee.

The recommendations contained in this report represent a consensus rather than a complete agreement on every issue that was before the Committee. While each member of the Committee might not agree with every recommendation, the Committee is pleased to present a report that each member can support. The Committee urges the ministers responsible for the agencies reviewed in this report to give serious and thoughtful consideration to the Committee's recommendations.

II AGENCY REVIEW

ONTARIO ENVIRONMENTAL ASSESSMENT ADVISORY COMMITTEE

INTRODUCTION

The Ontario Environmental Assessment Advisory Committee (EAAC)* provides advice to the Minister of the Environment on matters relating to the application of the Environmental Assessment Act, R.S.O. 1980, c. 140. The Agency, consisting of three members selected from outside government, was established in 1983 to increase public input into the Minister's decisions on what projects should be subject to the requirements of the Environmental Assessment Act.

BACKGROUND

In order to assess properly the efficacy and effectiveness of this Agency, it is important to elaborate on the environmental assessment process as it is outlined in the Environmental Assessment Act. The 5th Annual Report of the EAAC describes the process as follows:

This Act requires the proponent of a proposed undertaking to follow a planning process which addresses potential environmental concerns. The proponent must state the purpose of the undertaking, examine the potential environmental effects of the undertaking and alternatives to it, consider means of mitigating adverse environmental impacts, and prepare a document called an environmental assessment which sets out this information. Under the Act, there is a formal review of this document by both government and the public, and the public may request a hearing on the matter before the Environmental Assessment Board.

The Minister or the Environmental Assessment Board then makes a final decision regarding the approval or rejection of the undertaking.

The Act applies to all public sector undertakings, including activities, plans and programs of the Ontario government, municipalities and other public bodies. However, certain categories of public activities judged not to have significant environmental impact have been excluded from the Act, and public sector proponents

* Hereafter the Environmental Assessment Advisory Committee shall be referred to by either the acronym EAAC or as "the Agency."

may make a request to the Minister of the Environment to exempt a specific public undertaking from the requirements of the Act.

Private sector undertakings are subject to the requirements of the Act only when specifically designated by the Minister, subject to Cabinet approval. Any individual may request the designation of a private sector undertaking.

Some undertakings are subject to a class environmental assessment in which a set planning process is established for an entire group of activities that are similar in nature and usually minor in scale. An example of a class environmental assessment considered in 1986-87 by the EAAC was fishery reclamation. The reclamation process involves the removal, generally through pesticide application, of "undesirable" populations of fish in a water body and the introduction of more "desirable" species to improve sport fishing or to establish a hatchery. Other general examples of class environmental assessments would include municipal road projects or municipal water and sewage projects. Since these procedures are relatively straight forward and repeated on many occasions in a similar manner, a single environmental assessment is conducted and an established procedure is proposed so as to minimize environmental impacts.

Class environmental assessments usually include a provision which gives individuals the right to request that an undertaking be elevated or "bumped-up" (formal term in class EA documents) to a full individual environmental assessment as outlined above. Again, the Minister decides if this action is appropriate.

AGENCY MANDATE

According to the Memorandum of Understanding, the EAAC is to provide advice to the Minister of the Environment upon his request on matters pertaining to the environmental assessment process. Specifically, the Minister may, by written notice, request the Agency to review and provide advice upon:

- i) matters relating to requests for exemption from the provisions of the Act, and to requests for the designation of undertakings to render them subject to the Act;
- ii) matters relating to requests for individual environmental assessment under the Act of undertakings subject to class assessment or other class procedures;

- iii) policies or procedures relating to the environmental assessment process; and
- iv) any other matter relating to environmental assessment.

In addition to acting upon the request of the Minister, the Agency may bring matters of concern to the Minister upon its own initiative.

The EAAC also monitors all exemption requests, designation requests and "bump-up" requests made to the Minister. This includes all requests, both referred and not referred to the Agency. The EAAC makes this information available to the public for inspection.

LEGISLATION

The EAAC was established under Order in Council 1928/83 pursuant to clause 32(g) of the Environmental Assessment Act, R.S.O. 1980, c. 140. Clause 32(g) authorizes "the Minister of the Environment, for purposes of the administration and enforcement of the Act and the regulations, to appoint committees to perform such advisory functions as the Minister considers advisable."

According to Order in Council 1928/83, the EAAC shall:

provide advice to the Minister of the Environment, in accordance with a memorandum of understanding..., concerning requests for exemptions from the provisions of the Environmental Assessment Act, requests or proposals for the designation of undertakings so as to render them subject to the Act, and such other related matters as the Minister may prescribe.

STRUCTURE AND ORGANIZATION

The EAAC is an advisory agency of the Crown under Schedule I of the Management Board Directives manual. It is, therefore, subject to the guidelines, directives and administrative requirements that apply to agencies of this type.

According to the Management Board of Cabinet's Guidelines manual, these agencies:

- are funded out of the Consolidated Revenue Fund (CRF) or out of monies collected from the public by means of levies;
- are able to adhere to all management and administrative directives established by the Management Board;
- have their administrative-support services provided by the responsible ministry, unless the agency is of a sufficient size as to be able to provide its own support services in a more efficient and effective manner; and
- appoint staff under the Public Service Act.

The EAAC consists of three part-time members, including the Chairman. They are all appointed by the Minister of the Environment by an Order in Council and they are as follows:

- Dr. Philip Byer has served as a member of the Agency since October 1985 and was appointed chairman of the Agency in November 1986. Dr. Byer is an Associate Professor in the Department of Civil Engineering and the Institute of Environmental Studies at the University of Toronto. His experience is in risk management and project evaluation in the environmental and transportation fields.
- Dr. Robert Gibson has been a member of the Agency since October 1985. He is an Assistant Professor of Environmental Studies at the University of Waterloo. His work has centred on environmental ideology, policy and regulatory issues. Dr. Gibson co-directed an intensive study, published in 1986, of the environmental assessment process in Ontario for the Canadian Environmental Law Research Foundation.
- Ms. Christine Lucyk was appointed as a member in November 1986. She works for the Coopers and Lybrand Consulting Group where she specializes in economic analysis relating to resource management and development. Ms. Lucyk has broad experience dealing with urban and regional planning.

The EAAC operates with the assistance of a part-time coordinator, part-time researcher and full-time secretary.

MANAGEMENT AND OPERATIONS

For the most part, the activities of the Agency are in response to referrals from the Minister of the Environment on an "as required" basis. In 1987-88 the Agency had six referrals and met 16 times. In 1986-87 it considered eight referrals and met 28 times while in 1985-86, three referrals were considered and the committee met 7 times. In 1985-86, two of the three requests were withdrawn by the project before the Agency could act upon the referral.

In addition to those activities related directly to referrals, the EAAC provides unsolicited advice to the Minister and is also responsible for monitoring all requests received by the Minister. Table 1 shows the breakdown of all exemption, designation and "bump-up" requests made to the Minister in 1987-88 along with the number of Agency referrals in each class. As indicated, only two of the referrals were concerned with requests made to the Minister. The remaining four referrals included two that were made directly by the Minister concerning proposed policies of the Ministry, one Ministry submission to the federal government, and a supplementary report on a previous referral.

Table 1 Undertakings for which Exemption, Designation, or Bump-up was Requested, April 1, 1987 - March 31, 1988

	Exemption	Bump-Up	Designation
Total Requests	28	8	25
Status (September 1, 1988)			
Granted	19	0	2
Denied	0	6	6
Pending	2	1	14
Other*	1	1	3
Referred to EAAC	1	0	1

* Other includes withdrawn undertakings, withdrawn requests, and undertakings under federal jurisdiction.

When referring a matter to the EAAC, the Minister may indicate which of the following types of review is to be undertaken:

- **Open Review:** The Agency gives public notice of the review to a wide range of interested groups, individuals and government agencies, and generally holds a public meeting near the location of the proposed undertaking. The Agency requests that comments on the referral be provided either in writing or in person at the public meeting. The Agency's advice is normally required within six weeks.

- **Defined Review:** Public notice and consultation are limited to directly affected groups and individuals selected by the Minister or the Agency. The Agency may hold a meeting with affected groups and individuals. The Agency's advice is normally required within six weeks.
- **Internal Review:** There is no public notice or consultation. The normal time for this type of review is two weeks.

In giving its advice, the EAAC does not take a position on whether or not approval of the project should be granted. It is only concerned with whether or not the use of the environmental assessment process is appropriate. Agency reports to the Minister are made public after the Minister's decision has been made.

According to the EAAC 5th Annual Report for 1987-88, the Minister generally followed the advice of the Agency in the four referrals for which decisions have been made. The request on a fifth referral (#27) was withdrawn subsequent to the Agency's recommendation. A decision on a sixth referral (#29) has not yet been made. The details of these referrals are described briefly:

Supplementary Report to Referral #21 - Advice on Approval of the Ministry of Natural Resources' Class Environmental Assessment for Fishery Reclamation

The EAAC was asked to review Conditions of Approval which had been drafted subsequent to the Agency's June 1986 report on the Ministry of Natural Resources' Class Environmental Assessment (EA) for Fishery Reclamation (referral #21). The Agency submitted its supplementary report containing a number of proposed changes to the draft conditions. In May 1987 the Minister approved the Class EA for Fishery Reclamation subject to conditions that were generally in accordance with the Agency's recommendations.

Referral #26 - Advice on the Ministry of the Environment's Policies on the Environmental Assessment Process

The Minister asked the EAAC to conduct an Internal Review of the Ministry's proposed policy on Pre-submission Consultation in the EA Process and on the Role of the Review and the Review Participants in the EA Process. The Agency supported the Ministry's stated policies feeling that they would be of benefit to the EA Process and its participants. The Agency also identified some general issues for consideration during the Ministry's overall review of the EA Process. The Minister released the approved policies in November 1987.

Referral #27 - Request for Exemption of Wildlife Management Activities in the Peterborough Crown Game Preserve

The Minister asked the EAAC to conduct a Defined Review of the Ministry of Natural Resources' exemption request for wildlife management activities in the Peterborough Crown Game Reserve. The Agency submitted its report to the Minister recommending that the exemption not be considered until Cabinet rules on the question of hunting in the Preserve as the Agency had stated in a previous referral (#23 in October 1986). Following the release of the EAAC report to the Public, MNR withdrew its exemption request and said it would be reviewing the role of game reserves and developing a wildlife policy for review by Cabinet.

Referral #28 - Advice on the Submission by the Ministry of the Environment to Environment Canada on Improving the Federal Environmental Assessment and Review Process

The Minister asked the EAAC to conduct an Internal Review of the Ministry's draft submission to Environment Canada on its proposal to improve the Federal Environmental Assessment and Review Process (EARP). The Agency recommended that the Ministry's submission emphasize the need to strengthen the federal requirements to make them equivalent to the EA Process in Ontario. The Ministry incorporated the EAAC's recommendations into its submission.

Referral #29 - Advice on a Ministry of the Environment Policy on Environmental Assessment Act Exemptions for Interim Expansions of Municipal Waste Landfills

The Minister asked the EAAC to conduct an Internal Review of the Ministry's proposed policy on Environmental Assessment Act exemptions for interim expansions of municipal waste sites. This referral was a follow-up to Referral #24 in 1986-87. The proposed policy is meant to assist municipalities whose Certificates of Approval for their current landfill sites will expire before long-term waste management projects can be approved. The Agency has submitted its report but because the policy has not been finalized, its recommendations are not yet public.

Referral #30 - Request for Designation of the Kam 1 Hydro Development Project on the Kaministiquia River

The Minister asked the EAAC to conduct an Open Review of a designation request from the Thunder Bay Kayak and Canoe Association that a private hydro-electric project on the Kaministiquia River be subject to the Environmental Assessment Act. The Minister was also required to consider designation because the Ministry of Natural Resources had determined that the project was a major undertaking. After holding a public meeting near the site of the proposed project, the Agency submitted its report recommending that the project be designated under the Environmental Assessment Act limiting the consideration of alternatives to small-scale hydro-electric facilities in the area. The Minister later announced the designation of the project and limited the alternatives to be considered.

In 1986-87, the Minister followed the Agency's advice on four of eight referrals. These included the Class EA for Fishery Reclamation cited above, designation of a deer hunt in the Peterborough Crown Game Preserve, an exemption for a proposed waterfront development project in Hamilton, and an exemption request for municipal sewage and water works in the townships of Colchester South and Sidney.

The Minister did not follow the Agency's advice in two cases: a waterslide in Scarborough in which an Agency recommendation to designate was not followed; and a hydro-electric development project in the Algoma region where an Agency recommendation for designation was not followed. In a third case, the exemption for fish and wildlife habitat manipulation activities by conservation authorities was granted as advised by the Agency, but the Minister's decision did not include the more limited definition of habitat management activities suggested by the Agency. No decision has yet been made on referral #24, the ministry's proposed policy on the Interim Expansion of Municipal Waste Landfills.

BUDGET AND FINANCE

The EAAC is funded out of the Consolidated Revenue Fund (CRF) with its allocation determined by the Ministry of the Environment as part of its normal budgetary and estimates procedure. No other sources of funds exist.

The Agency's expenses over the last three years and estimates for 1989 are given in Table 2.

Table 2: EAAC Expenses for 1985-86 to 1987-88 and estimates for 1988-89

	1988-89 (est.)	1987-88	1986-87	1985-86
	=====	=====	=====	=====
Salaries and Benefits		\$36,332.00	\$63,237.00	\$32,863.00
		\$1,370.00	\$2,216.00	\$1,190.00
Transportation and Communications		\$5,078.00	\$6,909.00	\$2,910.00
Services		\$43,256.00	\$46,064.00	\$7,479.00
Supplies and Equipment		\$1,672.00	\$5,000.00	\$1,010.00
	=====	=====	=====	=====
TOTAL	\$121,100.00	\$87,708.00	\$123,426.00	\$45,452.00

The EAAC Chairman receives \$225 per day while the other two members each receive \$150 per day. This is in accordance with Order in Council 2628/87 and with Management Board Guidelines allowing members up to \$175 per day and the Chairman up to \$300 per day if appointees have a particular expertise and provide an opinion or decision on a matter.

ACCOUNTABILITY AND CONTROL

According to the Memorandum of Understanding, the EAAC is:

- accountable to the Minister in the discharge of its responsibilities; and
- responsible for the proper exercise of its discretion in carrying out its advisory function as well as for the financial and administrative responsibilities referred to below.

Moreover, the EAAC is instructed to follow normal expenditure and accounting procedures and Management Board Directives, and all expenditures are to be processed through the Ministry's purchasing and financial systems.

The Agency is subject to audit by the Ministry's Management Audit Branch and the Provincial Auditor. A provincial audit has not yet been performed. A Ministry audit was performed in May 1985. According to the Ministry audit report, the EAAC "is being administered with due regard for efficiency and economy. There are procedures in place to measure the effectiveness of the advice given to the Minister. However, improvement is needed in recording the number of hours worked by [Agency] members." Apparently, members were recording "study referral time" as "meeting preparation time." As a result, they occasionally exceeded the maximum number of hours allocated for meeting preparation. Since the completion of this audit, there has been a complete turnover in the Agency's membership.

A Sunset Review was completed in 1987. In it, the Ministry of the Environment asked Management Board to approve a renewal of the Agency's mandate for a further two years. The review stated that "the presence and use of the [Agency] has greatly improved the public image of the Ministry and of the Act itself and has facilitated the application and enforcement of the Act. While these benefits cannot be costed in dollars they certainly more than offset the relatively limited [Agency] budget." On August 11, 1987, Management Board approved the Ministry's request for mandate renewal.

The Agency was renewed by Order in Council 2362/87 on October 22, 1987 and a revised Memorandum of Understanding was signed in April 1988. The revised Memorandum of Understanding more clearly defined the relationship of the Agency to the Ministry and the Deputy Minister by detailing what access the Agency had to Ministry information and staff. It also established in writing the Agency's role of monitoring all designation, exemption and "bump-up" requests, and making this information available to the public. Moreover, the Agency's ability to bring matters of concern relating to the environmental assessment process to the attention of the Minister was formalized.

The Agency has not appeared before any committee of the Legislature in the last three years.

The EAAC must prepare an annual report to be submitted to the Minister within three months of the end of the fiscal year. The annual report includes a short description of the Agency's mandate, brief summaries of the cases referred to it by the Minister and a record of all requests made to the Minister over the course of the year. It also contains a section on issues and opportunities.

In the annual report for 1987-88, the Agency indicated that it was under-utilized in reviewing specific exemption and designation requests. It also identified six areas of concern regarding Ontario's environmental assessment process. These were:

- private sector designations;
- the length of time required for decisions;
- combined public and private sector undertakings;
- the role and proper use of exemption orders;
- streamlining the Environmental Assessment Process with that of other government approvals; and
- the special case of Environmental Assessment and its impact on Northern Development.

The 1987-88 annual report identified these as issues that should be addressed in order to make the present process more efficient and effective.

RECOMMENDATIONS

Committee members questioned the EAAC Chairman Dr. Philip Byer during a public hearing held on 16 August 1989. A number of issues and observations were raised that the Committee has considered in making its recommendations.

These issues are described briefly below along with the Committee's recommendations. This report is restricted to those issues closely related to the Agency and does not examine the larger question of EA approvals or the EA Board except as they relate to the Agency.

Redefining the role of EAAC in the EA Process

The Committee recognizes the important contribution made by the EAAC to the current EA process. However, this contribution appears to be in excess of its requirements as an advisory board to the Minister. By holding public hearings and assessing the information gathered, the EAAC has acquired a perspective and an expertise that can be of use not only to the Minister, but also further along the EA process. The Committee believes that this information and expertise should be fed directly into the EA process.

The Committee believes that this integration could be achieved by associating the EAAC with the EA Board rather than with the Minister. This would involve transferring decision-making responsibilities over designations, exemptions and bump-up requests to the EA Board. The Board would then have the option of referring certain cases to the EAAC for special consideration or public input.

The Committee therefore recommends that:

1. The duties of the EA Board should be expanded to include decisions regarding designation, exemption and "bump-up" requests, and any decision by the EA Board would be final, subject to a review by the Minister of the Environment pursuant to section 23 (1) of the EA Act.
2. The EA Board should have the authority to delegate to the EAAC its decision-making powers over designation, exemption and "bump-up" requests, and criteria should be established by the Minister of the Environment to identify clearly those instances when this delegation should occur.

The Committee learned that the EA Act is reasonably clear on its application to public sector undertakings, and guidelines do exist for public sector exemptions from the Act. These guidelines contain criteria that must be met if a project is to be exempted from the EA Act. However, according to Dr. Byer, similar guidelines or criteria do not exist for the designation of private sector projects under the Act. Although the EAAC does operate according to its own set of designation criteria, Dr. Byer is unaware of any similar working documents for the Ministry.

The Committee believes that any process that is designed to protect the environment for the enjoyment and betterment of the people of Ontario should state clearly and publicly the criteria by which any decisions are to be made. Clearly stated criteria for designation, exemption and "bump-up" decisions would reduce the uncertainty that currently surrounds this decision and allow the public the opportunity to measure the effectiveness of the EA process against some expected standard.

Since this review is targeted at the EAAC and not the EA Board, the Committee's recommendation regarding a clearly stated set of criteria would extend only as far as the EAAC. However, the Committee did indicate that such criteria might also be appropriate for the EA Board whenever private sector designation decisions are made.

The Committee therefore recommends that:

3. **The Ministry of the Environment should establish criteria and publish guidelines for proponents on the designation of private sector undertakings; and these criteria should be applied by the EAAC whenever decisions are made.**

Dr. Byer made it clear that the present staffing and Agency membership would have to be revised if any further responsibilities were placed on the EAAC. Since the changes recommended by this Committee are substantial, a complete reassessment of the EAAC's requirements would be in order.

The Committee therefore recommends that:

4. **The EAAC should assess its ability to handle a heavier workload and notify the Ministry of the Environment regarding any increased staff or membership requirements.**

The Committee acknowledges the tremendous logistical problems created by the recommendations presented and does not claim to have solutions for all these problems. Instead, the Committee would like to see its recommendations become part of the overall assessment of the EA process that is currently underway as part of the Ministry's Environmental Assessment Program Improvement Project (EAPIP).

The Committee therefore recommends that:

5. **The Committee's recommendations should be forwarded to the EAPIP office for consideration as part of their overall assessment of the EA process.**

Delay in the EA Process

Committee members expressed considerable concern over the delay that is often associated with the EA process. Remembering that the Agency deals only with questions regarding the application of the EA Act, delay can occur at the following places:

- between the time a request for designation, exemption or "bump-up" is received and its referral to the EAAC; and
- after a recommendation is made by the EAAC to the Minister and before the Minister's decision.

The Committee recognizes that a certain amount of time is required to collect information, analyze the situation and provide an assessment on the matter. However, the delay surrounding some of the cases discussed at the hearing appeared to be unreasonable to both the Committee and Dr. Byer. These delays will often cost the proponent money and provide greater incentive to avoid the process altogether rather than to operate effectively within it. Unreasonable procedural delays also provide a weapon for people who wish to disrupt a proposed undertaking for reasons other than environmental concerns. By reducing these delays, proponents would be less inclined to avoid the process, and the effectiveness of the EA Act as a vindictive or tactical weapon would be reduced.

The Committee therefore recommends that:

6. An amendment should be made to the EA Act to specify a maximum time period for the consideration of a designation, exemption or "bump-up" request by the EA Board or the Minister, as well as an additional period of time for those requests referred to the EAAC.

Public Awareness of the EA Process

The observation was made by several Committee members that the province's EA process is confusing and unclear to most members of the public. As a result, the Act and the process is not being used as it was intended. Dr. Byer explained that the EA process can be more than a procedure used to stop development. If used properly, it can actually improve overall project planning by helping the proponent anticipate environmental problems in time either to avoid them or mitigate them more effectively.

The Committee therefore recommends that:

7. The Ministry of the Environment should undertake a public information program designed to educate the public regarding the role of EA in the overall planning process, what EA is designed to accomplish and how this goal is to be achieved.

Housekeeping

It was pointed out by some Committee members that the procedure used to appoint members of the EAAC is inconsistent with that outlined in the EA Act.

The Committee therefore recommends that:

8. An amendment should be made to the EA Act in section 32 (g) requiring that all appointments be made by an Order in Council.

PSYCHIATRIC REVIEW BOARD

INTRODUCTION

Ontario's Psychiatric Review Board is a quasi-judicial body, acting under the authority of the Mental Health Act, which reviews decisions affecting the conditions of psychiatric patients as requested by the patients, their representatives, or their treating physician. The Review Board does not have jurisdiction over the incarceration of inmates of forensic facilities who have been found not guilty by reason of insanity and are held under Lieutenant Governor's Warrants. These cases are reviewed by the Lieutenant Governor's Board of Review, which advises the Lieutenant Governor on suitable dispositions.

Review Boards have existed since 1967, and have had changing powers over that time. Essentially, the conception of the rights of prisoners, and of patients (as in the issue of informed consent to treatment) has expanded greatly over the last twenty years, under the impact of case law, statutes, and the adoption of the Charter of Rights and Freedoms. Psychiatric patients share characteristics of both prisoners and consumers of medical care, and have shared in these expanded rights.

The present Review Board was constituted in 1986, by the Equality Rights Statute Law Amendment Act. It now consists of 131 appointed members, who sit in panels of three or five. Each panel has to have at least one psychiatrist, one lawyer, and one lay member. This system is intended to be more flexible than the old system of Regional Review Boards, which were geographically based at the psychiatric hospitals. Since more people are now treated in the psychiatric wards of general hospitals than in the psychiatric hospitals themselves, the new arrangement also addresses the changed system.

As is suggested by the changes made in an effort to comply with the Charter, protecting the security of the mentally ill person is often a balancing act between the person's legal rights and his physical safety. This conflict often arises at inquests; occasionally, a mentally ill person who has committed suicide or murder could have been saved by a timely committal to the safer environment of a hospital. The Act does of course address this situation, in saying that a person who is a danger to himself or others can be committed against his will; psychiatry is not however a predictive science.

The most difficult issues dealt with by the Review Board revolve around the questions of involuntary commitment, and incompetency of patients. If a physician thinks a person is suffering from mental illness "that likely will result in...serious bodily harm to the person; serious bodily harm to another person; or imminent and serious physical impairment to the person", the physician can apply to have a formal psychiatric assessment done (s. 9). A justice of the peace can make the same application, under the same conditions (s. 10). The individual can then be taken to a psychiatric facility for a maximum of 72 hours for assessment (s. 14(3)). A police officer has the same power, but he or she must witness "disorderly" conduct likely to lead to harm to the individual or another person (ss. 11, 12).

A different physician can then order the person to be held as an involuntary patient for up to two weeks; this order can be renewed for one month under a first certificate of renewal, two months under a second certificate, and three months under a third certificate (s. 14(4)). The conditions for renewal are the same as for the original application (s. 14(5)).

However, even if the patient has been judged to be suffering so acutely from mental illness that he or she is at risk of serious bodily harm etc., he or she is still assumed to be competent to, for example, see his or her own medical records, or judge his or her own need for treatment. If the facility determines that the patient is not mentally competent for some particular purpose, the patient can ask the Review Board to determine the issue. If the patient is refusing treatment, the treatment shall not be given until the Review Board has made a ruling (s. 35a(11)). The same situation arises if the patient decides to appeal a Board decision to the Court.

Thus, the patient who chooses to do so is able to challenge many of the decisions which will affect his or her situation in a psychiatric facility. The patient is eligible under the Legal Aid Act for the help of a lawyer in doing so (s. 30a). The role of the Review Board is to provide the first, relatively informal and non-adversarial, opportunity to make these challenges.

MANDATE AND POWERS

The Board can hold hearings into the following matters:

- involuntary hospitalization;

- treatment orders;
- incompetency to manage one's estate;
- incompetency to consent to treatment;
- incompetency to have access to one's clinical record;
- incompetency to authorize disclosure of that record;
- access to one's clinical record;
- hospitalization of a child 12-15 years old on the authority of his parents;
- appointment of a substitute decision maker.

Most of the Board's hearings are held at the initiative of the patient. Some, however, like the declarations of incompetency, are more likely to be initiated by the patient's doctor. Any party to the hearings before the Review Board may, if he or she wishes, apply for a review by District Court on appeal from the decision of the Review Board (s. 33f), except in the case of access to files, where the file would become part of the court's record. However, the decisions of the Board are generally in favour of the institution rather than the patient, so it is generally at the patient's initiative that an appeal would be made to the court. The "quasi-judicial" nature of the Board suggests that the hearings are intended to be less adversarial in nature than a full court hearing.

LEGISLATIVE AND REGULATORY FRAMEWORK

Legislative Authority

The Review Board is appointed by the Lieutenant Governor in Council under the authority of the Mental Health Act. This Act has undergone major revisions several times in the last twenty years, and each of these revisions has affected the Review Boards.

The Review Boards were established by 1967 amendments to the Act, made in response to a publicized case of a man held at Oak Ridge who was generally thought to be sane, and his sudden release. The Boards were given the power to review the status of involuntary patients, at the request of the patient or a representative, or the Ministry. This request could be made when a certificate of renewal (of the involuntary admission) came into force, or when the status of the patient changed from voluntary to involuntary. These powers were very limited, depending on the request of the patient for a hearing. At the same time, the Advisory Review Boards

had the responsibility for reviewing each case of a patient held under a Lieutenant Governor's Warrant at least once a year (S.O. 1967, c. 51, ss. 28-30).

In 1978 a number of revisions were made to the Act increasing the powers and duties of the Review Boards. The review of the patient's case was made automatic at every fourth renewal of the certificate of involuntary admission (this is still the case - s. 31(4)). The procedures of the Board were made more specific; for example, only a member of the Board who was present at the hearing can participate in a decision. The parties to proceedings before the Board were given the power to appeal to District Court.

Patients were also given the power to refuse consent to treatment, and their psychiatrists could appeal the decision to the Review Board. Patients could appeal a finding of incompetency to the Review Board. However, it is important to note that sections 30a and 33a-33f did not come into force until 1984, and that even then the power to refuse consent to treatment could be overridden by the Board.

Most recently, in 1986 and 1987, a series of changes were made to the Act to respond to the Charter of Rights and other changes in the social environment. They were very contentious, since it has been argued that they emphasize the right to liberty of the patient at the expense of his or her right to be free of the mental illness. The 1986 changes were contained in s. 33 of the Equality Rights Statute Law Amendment Act, specifically to address the Charter of Rights and Freedoms. For example, it gives additional rights to children aged 12 to 16 to challenge their involuntary commitment, see their records, etc. (Mental Health Act, s. 8a, 29a(14)); it also recognizes a common-law spouse as the representative of a patient (s. 1a (1)). The 1987 changes allowed the Review Board to override the refusal of treatment of the substitute decision maker of an incompetent patient, except in the case of electroconvulsive therapy (ECT) (s. 35a(6)).

The Board is subject to the provisions of the Statutory Powers Procedures Act, which prescribes rules of procedure for quasi-judicial bodies like the Board. The Act provides, among other things, that people affected by the decision of such a board must be notified that hearings will be held, and that hearings must be public unless that is against the best interests of the person. The Mental Health Act also contains detailed rules on notice and representation (s. 30a), and the Board must provide a decision within one day of a hearing and written reasons to all parties to a hearing within two days of making the decision (s. 33c).

Regulatory Framework

The regulations most relevant to the work of the Review Board are those establishing the forms and procedures of the actions reviewed by the Board. For example, Form 3, which details the steps to be followed in an involuntary admission, is prescribed by the regulations. If the procedures have been followed incorrectly, the officer in charge of the facility has to order the re-examination or release of the patient (s. 14(8)).

In addition, the appointment of members of the Board and their reimbursement are stated by Order in Council.

BUDGET AND FINANCES

The money allotted to the Regional Review Boards by the Ministry of Health has increased greatly in the last four years. In 1984-85, "direct costs" were \$365,619. In 1988-89, funding from the Ministry was estimated at \$1,426,000. The largest increase came in the 1986-87 fiscal year, when estimated costs were \$610,971, but actual costs were \$1,092,733.

This large increase is due to the doubling of the number of people on the new unified Board, from 60 to 131, in order to deal with new duties under the 1986 changes to the law. However, the number of cases reviewed has been going down slightly each year (from 1069 in 1985-86 to 945 in 1987-88). The expenditures of the Board consist entirely of Services, and Transportation and Communications, with \$1.3 million going to the former and \$89,000 to the latter in 1987-88. The per diems paid to members of the Board are \$550 to the lawyers and psychiatrists and \$136 to lay members.

LIEUTENANT GOVERNOR'S BOARD OF REVIEW

As noted previously, the cases of patients in psychiatric facilities under Lieutenant Governor's Warrants (LGWs) are not reviewed by the board dealt with in this report. To avoid any confusion with respect to jurisdiction over the handling of such cases, the Committee feels that a brief description of the Lieutenant Governor's Board of Review and its powers is in order.

Patients who have been found unfit to stand trial, or not guilty by reason of insanity, are detained in psychiatric facilities at the pleasure of the Lieutenant Governor. They are in theory receiving treatment for whatever condition they suffer from, but their sentences, unlike those in the correctional system proper, are indefinite (and indeed tend to be longer than sentences for the same crime if served in prison). There is an obvious potential for injustice in this situation, and the Lieutenant Governor's Board of Review is intended to reduce this potential. The federal government also may table amendments to the Criminal Code which would cap the time spent in facilities under LGWs for some minor crimes.

Legislation

Like many other justice issues, the Lieutenant Governor's Warrant system is a shared responsibility of the federal and provincial levels of government. The Criminal Code provides that people found not guilty by reason of insanity or unfit to stand trial by reason of insanity can be imprisoned at the pleasure of the Lieutenant Governor (i.e., by the particular province). The provinces may set up advisory boards to review these cases, and in fact all provinces now have such boards. Ontario's board is set up under the Criminal Code, but for many purposes the rights of prisoners under the Mental Health Act are similar to those of involuntary patients; for example, they have the right to refuse treatment.

RECOMMENDATIONS

General Observations

The two most contentious issues in the mandate of the Review Board, at least as recorded by the media, are the increased reviewability of the involuntary commitment of a patient to a facility, and the power of competent patients to refuse treatment. The first contentious issue, the right not to be committed unless one is thought to be an immediate threat to oneself or others, has been brought up at recent inquests into suicides, and was a major topic of Committee discussion. The Review Board, as the first line of appeal under the Act, has to deal directly with the strict wording of the law on this subject.

On the second issue, the right to refuse treatment, the Committee was given information on the scale of this issue as it reaches the Review Board. Contrary to the expectation when the law was changed in 1986 and 1987, these cases have not increased notably; however, material supplied by the Ministry suggests that almost half the applications made for a hearing before the Board are being withdrawn. The problem may be addressed more satisfactorily by the inquiry into the determination of competence, being conducted by David Weisstub. He was appointed in April 1988, and is expected to release a final report early in 1990. While that inquiry addresses competence, not treatment issues, the Act at present gives a competent patient the absolute right to refuse treatment. For that reason, the report's findings on competence will probably provide guidance, at least, to the Review Board in its operations.

Discussions of certification of patients centred on the question of the revolving door. The Chairman explained that, by his interpretation of the important case of Dayday v. MacEwan, members of the Board who deal with one case involving a given patient cannot sit to deal with another case involving the same patient (this view is also important to the question of staffing, discussed below). Their personal experience with repeated commitments of a given patient to psychiatric facilities is therefore limited to consideration of the file before the Board. The limitations on what evidence the Board can consider in deciding whether the patient is eligible for involuntary commitment - the same criteria of likely harm to the person or another - were discussed at length by the Committee.

At present, the criteria applied in the determination of incompetency are criteria which have been established at common law. There are no criteria set out under the Act. Members of the Board indicated that the lack of specific, legislatively prescribed criteria has adversely affected the efficiency of the Board's operation. In particular, the medical and lay members of the Board have found that, in the absence of specific criteria, much of the Board's time is consumed by interpreting the common law criteria.

There was some discussion of the large increase in the costs of the Board, especially given that the number of cases being considered has been decreasing slightly. The Chairman noted the larger number of people required to hear different cases involving the same person, in the aftermath of Dayday v. MacEwan. The average amount of time required for hearing cases, and the adequacy of the per diem were also discussed.

The Board observed that in order to comply with Dayday, Board members must be brought in from regions outside of the region in which the hearing is to be held. Moreover, there exists some confusion among Board members as to which types of cases this common law rule applies.

Board members have observed that many of the applications for treatment are repeat applications. In the view of the Board, this trend has resulted from the fact that the current criteria for determining incompetency do not include an assessment of whether or not an individual understands that he or she is actually suffering from a mental illness. That is, individuals who do not understand that they suffer from a mental illness, can still be found competent and, therefore, successfully oppose applications for treatment. It is these individuals who are often the subject of further applications for treatment. The Board feels that, not only would such individuals be better served, but the efficiency of the Board's operations would be enhanced, if treatment orders could be granted in cases where the individual does not understand that he or she suffers from a mental illness.

The experience of the Board has been that the lack of a prescribed time within which an appeal must be heard has led to an abuse of the appeal process. For example, treatment orders apply only for a specified time from the date of the hearing of an application for treatment. If the treatment order is appealed, its effect can often be nullified, since the order will be stayed pending the outcome of the appeal, and the appeal often is not heard until after the expiry date of the treatment order.

The existing legislation does not preclude an individual who has been unsuccessful at a hearing from bringing another application before the Board in order to stay the effect of the initial order. The Board has found that, in this way, orders can be delayed indefinitely.

Accountability and Control

The Board is currently a body that operates at arms-length from the Ministry. The Committee is of the view that this relationship should continue. However, the Committee also notes that, at present, the Board does not produce an annual report. Moreover, there is no mechanism in place whereby the Board can make recommendations for the improvement of its own operations.

The Committee therefore recommends that:

9. The production of an Annual Report to the Minister should be added to the mandate of the Review Board. This Report should collect statistics on, and include discussions of:
 - each of the mandated reviewable issues listed in the Act;
 - whether the number of proceedings initiated remains high in proportion to those heard;
 - what proportion of decisions is made in favour of the patient and of the facility.
10. The Annual Report should include recommendations for improvement of the functioning of the Board, which should in addition maintain its arms-length relationship with the Ministry.

Some concerns were also expressed by both a witness and members of the Committee regarding the lack of a defined chain of administrative accountability for the Board. It is not clear who is responsible for resolving problems with the operation of the Board - for example, if transcripts of decisions are not received by all parties to the decision within the time demanded by the Act.

The Committee therefore recommends that:

11. The Ministry should review and announce an appropriate administrative process for resolving administrative problems with the operations of the Board.
12. The Provincial Auditor should conduct an efficiency audit of the Board's operations.

Briefing of New Board Members

At present, there is no standardized briefing program for new members of the Board. The Committee believes that new members could benefit from an initial briefing on the provisions of the Act as well as the issues they will be dealing with as Board members.

The Committee therefore recommends that:

13. New Board members should receive a standard briefing on the detailed provisions of the Act, clinical issues they are likely to deal with, Charter issues as they relate to the legislative framework of the Board, and the court decisions which have been made in the area. The Annual Report recommended above should include details of this briefing as well as the educational program for Chairmen.

Composition of the Board

The fact that all the Chairmen are at present lawyers was also raised as a concern. This is not a requirement of the Act, and Members raised the possibility that it may make the Board's atmosphere more adversarial than was envisaged in the Act.

The Committee therefore recommends that:

14. **The Ministry should review the composition of the Board in the light of the concerns expressed by members of this Committee, and assess the Board's future terms of reference.**

Remuneration of Board Members

The Committee notes that the remuneration currently provided to lay members of the Board is significantly less than that which is provided to the Board's professional members. The Committee believes that this discrepancy is not justified.

The Committee therefore recommends that:

15. **The Ministry should assess the appropriateness of the existing discrepancy in remuneration between the professional and lay members of the Board.**

Caselaw Reporting

The Committee observed that there is currently no database of Board decisions available to Board chairmen. The Committee believes that, in light of the complexity of the Act, the obligation on the Board to provide a written decision for each case, and the effect on the Board of the Charter, a database of Board decisions should be established.

The Committee therefore recommends that:

16. **The Ministry should create a database of Board decisions.**

THE ROYAL ONTARIO MUSEUM BOARD OF TRUSTEES

INTRODUCTION

The Royal Ontario Museum was founded in 1912 under the Royal Ontario Museum Act. The Act has been amended several times over the years, the latest version being the Royal Ontario Museum Act (R.S.O. 1980, c. 458). The Royal Ontario Museum is the largest single museum in Canada and is Canada's international museum. The Museum holds one of the largest collections of material culture and natural history in North America.

The Museum was initially governed jointly by the Province and the Governors of the University of Toronto through a 10 member Board of Trustees. The partnership between the Province and the University was reflected in the appointment of the trustees, which was divided almost evenly between the Province and the University's Governors. In addition, the cost of maintaining the Museum was borne equally by the Province and the University.

The Board was given authority to make by-laws, rules and regulations to carry out the objectives of the Museum. The Act also provided that each of the Museum's departments could be designated as the Royal Ontario Museum with respect to a particular department's discipline. Accordingly, the Board's first by-laws established, in effect, three museums: the Royal Ontario Museum of Geology, of Mineralogy and Paleontology, and of Zoology.

Amendments to the Act in 1947 increased the number of Board trustees from 10 to 12, with a majority of the trustees being University of Toronto officials. In addition, the University was now responsible for the budget and management of the Museum, and all Museum property was vested in the Governors of the University. As a result of these changes, the University had effective control of the Museum's operations.

In 1954, the firm of Clarkson Gordon conducted a review of the Museum's operations and released its findings in the Glassco Report. The Report stressed that the Museum should continue to be regarded as a public museum and not simply an institution serving the needs of the University of Toronto. The Report, therefore, recommended that the Province make annual grants to the Museum and that the membership of the Board of Trustees be increased to reflect the public's interest in the

Museum. The Report also recommended that the individual museums be merged into one museum with separate departments, headed by a single director.

In response to the Glassco Report, a single unified museum with three divisions was established. A director was appointed who was to make decisions based on the advice received from the head of each division. The Board of Trustees was increased to 19 members; however, all appointments were made by the University's Governors. The Act continued to provide that the Museum was to be managed by the Board in accordance with the Act and any by-laws enacted by the University's Governors. No provision was made for direct funding by the Province. Thus, the University's Governors continued to have full responsibility for the management of the Museum.

However, by the 1960s, the Museum's operations had become too large and expensive to be effectively run as a department of the University of Toronto, and separation of the Museum from the University became inevitable. Formal separation occurred with the passing of The Royal Ontario Museum Act, 1968, which created a 21 member Board of Trustees consisting of three ex officio trustees, 15 trustees appointed by the Lieutenant Governor in Council, and three trustees appointed by the members of the Museum. The Museum's property, formerly vested in the Governors, was now vested in the Museum.

The most significant development at the Museum in recent years has been the renovation and expansion program, implemented under the directorship of Dr. James E. Cruise in the 1970s. When Dr. Cruise retired in 1985, more than \$60 million, including \$44 million in provincial grants, had been spent on this project.

The Museum's financial operations, and, in particular, the renovation/expansion program, were the subject of a review conducted by the Standing Committee on Public Accounts in 1979-1980.

In March 1987, the federal and provincial governments announced that each government would be contributing an additional \$5 million toward the gallery development project. Work on the new galleries and exhibits is expected to continue into the 1990s.

The Museum is under the authority of the Ministry of Culture and Communications.

MANDATE AND POWERS

The Act states that the objects of the Museum are:

- the collection and exhibition of objects, documents and books of any kind to illustrate and make known to the public the natural history of Ontario, Canada and the world;
- the collection and exhibition of objects, documents and books of any kind to illustrate and make known to the public the history of man in all the ages;
- the operation of a planetarium; and
- the promotion of education, teaching, research and publication in any or all fields related to the objects of the Museum.

The Museum has attempted to meet these objectives in several ways. The Museum is currently conducting external evaluations of its curatorial programmes to assess the Museum's relative international position, and to determine the resources necessary to allow the Museum to fully achieve its objectives.

In the past year, the Museum completed its first strategic plan, entitled "A Strategic Plan for the Royal Ontario Museum with Certain Operation Recommendations for the period 1989-1993."

The Gallery Development Project continues to be the top priority for the Museum. The most recent plan for gallery development estimates that the remaining galleries will be completed in the next five to eight years. The Board of Trustees has approved a budget of \$42.5 million for the project. This plan also calls for a reduction of existing projects, so that at the end of fiscal year 1987-1988, six gallery projects were active.

In order to help secure the financial security of the Museum, the Future Fund Today Endowment was created in 1986. This fund will be used to assist acquisitions, research, field expeditions and other programs. At the same time, the Museum introduced a Partners in Excellence Program to solicit sponsorship for the Museum's

activities. The Museum reports that corporate sponsorship for major exhibitions and other Museum programs has continued to increase in recent years. The growth in support from all areas has allowed the Museum to attract several major international exhibitions to Toronto, including "Discovery of the Titanic", "Treasures of the Holy Land: Ancient Art from the Israel Museum", and "Maya: Treasures of an Ancient Civilization."

The staff of the curatorial and curatorial service departments are involved in expeditions, research, lectures and study trips all over the world, as well as in Ontario and the rest of Canada. The staff is also responsible for the processing and the academic content and exhibit of new artifacts and specimens received by the Museum. The Museum notes that many international expeditions have been funded by the Science Co-operative Field Studies Program which was initiated in 1984.

The Museum has attempted to carry out its mandate to represent Ontario and Canadian natural history through the display of several exhibitions in recent years, including the "Paul Peel Retrospective", "Posted to Canada: The Watercolours of George Russell Dartnell 1835-1844", "Blood from Stone: Making and Using Stone Tools in Prehistoric British Columbia" and "Ontario at Home: Two Hundred Years of Living." The Museum also has a Canadian Decorative Arts department.

The McLaughlin Planetarium reports that six public shows were presented in 1987-88, including three new productions. Six curriculum-related school shows were available for children from kindergarten through grade 12. While star theatre attendance was down 3.2% for 1987-88, the Planetarium's total attendance since opening in 1968 has surpassed the 5 million mark. The Planetarium has recently made several important acquisitions and has taken steps to improve theatre automation. The Planetarium staff continues to give special lecture demonstrations to post-secondary students and special groups.

With respect to its educational objectives, the Museum reports significant growth in this area. Attendance for all programs was up 8.6% in 1987-88 over the previous year. The Museum employs six full-time teachers plus four part-time staff during the school year to run educational programs for school children. Four courses were created to complement the Ontario Ministry of Education's course development of

arts and communication. The Museum continues to expand its traditional Saturday morning activities for children. In addition, the continuing education program for adults has experienced steady growth, and complementary and collaborative programs with educational institutions in the Toronto area have been developed.

The Museum provides a publication service as well as a Museum shop.

STRUCTURE AND ORGANIZATION

The Board of Trustees is responsible for the operations of the Museum. The Board consists of 21 trustees who are appointed as follows: the Chairman of the Governing Council of the University of Toronto, the President of the University and the Director of the Museum are *ex officio* trustees; 15 trustees appointed by the Lieutenant Governor in Council; and 3 trustees elected by the members of the Museum. Each non-*ex officio* trustee holds office for a term of 3 years and is eligible for re-election or re-appointment for one additional term.

The Lieutenant Governor in Council appoints a Chairman of the Board from among the trustees. Any vacancies are filled by the body which appointed or elected the trustee. The Board appoints a Vice-Chairman. Seven trustees constitute a quorum for meetings of the Board.

The trustees serve without remuneration, but do receive compensation for expenses incurred in the performance of their duties as trustees.

In 1988-89, the Museum employed the following staff:

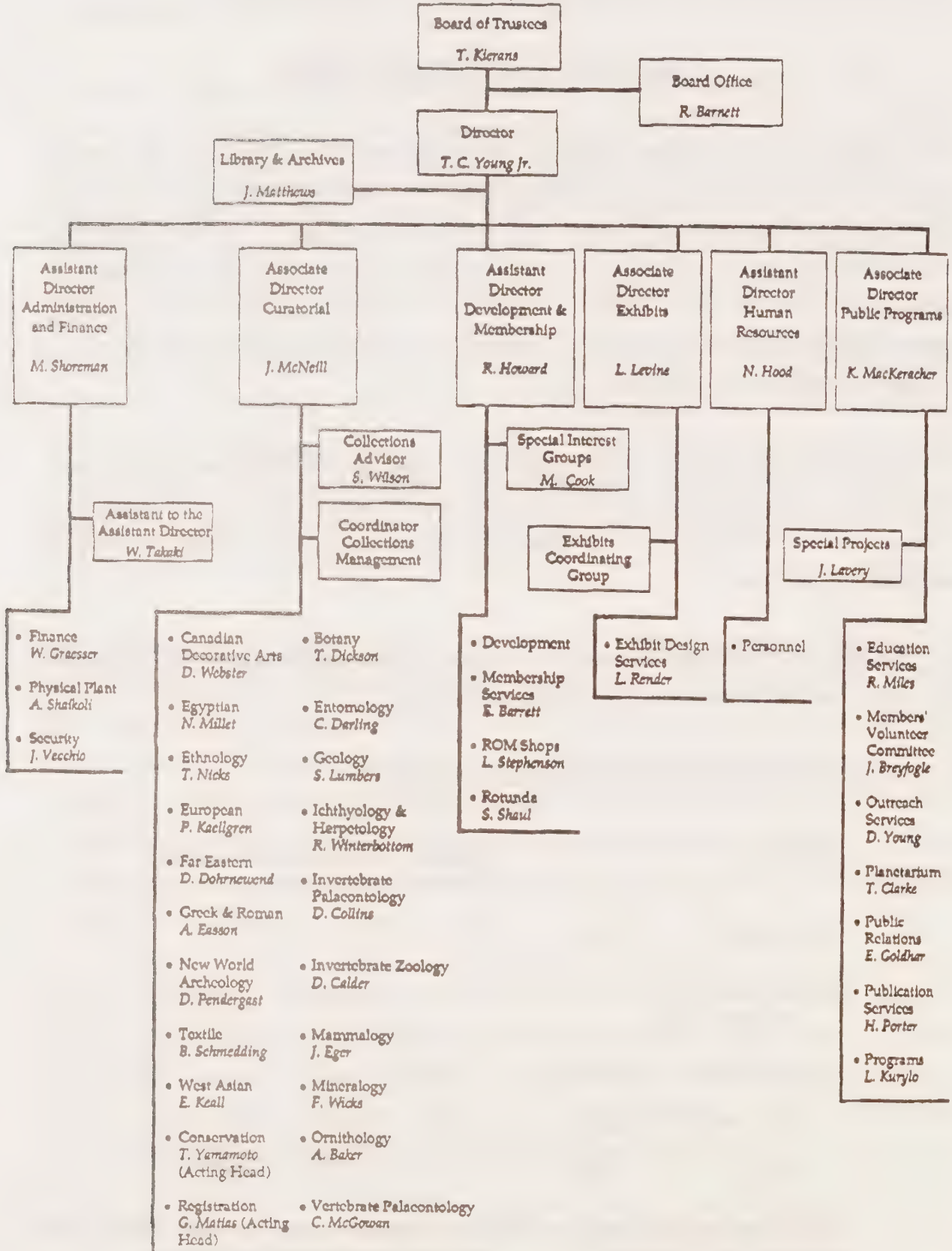
Officers	7	(Director, 3 Associate Directors, 3 Assistant Directors)
Office Staff	116	
Professional support staff		
i) full time	350	
ii) part time*	<u>150</u>	
Total	623	

*Part time includes some positions in security as well as some clerical and technical staff positions.

The Board also appoints a Director who is the chief executive officer of the Museum. Below the Director are Associate/Assistant Directors, Curators, officers and support staff. The following is the Museum organizational chart as of July 1, 1989.

Museum Organizational Chart

as of 1 July 1989



MANAGEMENT AND OPERATIONS

Section 5 of the Act sets out the powers of the Board. The Board is given the general power to do all things "necessary or convenient to achieve the objects of the Museum . . . " The specific powers of the Board include the authority to:

- (a) make by-laws, rules and regulations,
 - (i) for the administration of the affairs of the Museum,
 - (ii) governing the use by the public of the facilities, property and equipment of the Museum and requiring the payment of fees for the admission of the public or any class thereof to such facilities and property, and prescribing the amounts of such fees, and
 - (iii) providing for membership in the Museum and prescribing the qualifications and terms of membership and the fees, if any, to be paid therefor, and providing for and regulating meetings of the members;
- (b) appoint a Director of the Museum;
- (c) appoint, promote, transfer or remove an Associate Director or Associate Directors and all curators, officers and staff as are necessary for the proper conduct of the affairs of the Museum on the recommendation of the Director;
- (d) fix the duties, salaries and qualifications of office or employment and other emoluments of the Director, the Associate Director or Directors, curators, officers and members of the staff of the Museum;
- (e) provide for the retirement and superannuation of persons mentioned in clauses (b) and (c);
- (f) appoint by resolution a trustee or trustees of the Board, or any other person or persons, to execute on behalf of the Board any documents and other instruments in writing and to affix the corporate seal of the Museum thereto;
- (g) pass a by-law authorizing the trustees to elect from among their number an executive committee consisting of not fewer than three and to delegate to the executive committee any powers of the Board, subject to the restrictions, if any, contained in the by-law or imposed from time to time by the trustees, and authorizing the trustees to fix the quorum of the executive committee at not less than a majority of its members;
- (h) appoint committees from the trustees of the Board and such other committees as are considered desirable, and confer upon any such committees authority to act for the Board with respect to any matter or classes of matters;

- (i) establish, maintain and operate a museum and a planetarium and related facilities as required or convenient for carrying out the objects of the Museum;
- (j) enter into agreements with any association or organization having objects similar to those of the Museum;
- (k) enter into agreements with any governing body of a university, college or school
 - (i) to provide for the interchange of staff, and
 - (ii) generally in other areas consistent with the objects of the Museum;
- (l) solicit, receive and hold gifts of every nature for any purpose related to the objects of the Museum upon such trusts and conditions as seem proper to the Board, and administer such gifts in accordance with such trusts and conditions; and
- (m) generally conduct and manage the business and affairs of the Museum.

The Board met 11 times in 1986-87, and 10 times in each of the last two fiscal years. It should also be noted that there were 136 committee meetings in 1986-87, 137 in 1987-88 and 153 in 1988-89.

The Director, as chief executive officer of the Museum, has the general responsibility of supervising and directing the operations of the Museum, and the Associate Directors, curators, officers and staff. The Director is also given the following specific duties:

- to make recommendations to the Board on all appointments, promotions and all removals of staff, including the Associate Directors, curators and officers;
- to suspend Associate Directors, curators, officers or staff members and to report such actions and the reasons therefor to the Board; and
- to report annually to the Board on the affairs of the Museum and to make recommendations as the Director considers necessary.

In recent years, the Board has made efforts to seek advice from outside the Board itself. For example, the Board had more than 20 standing committees last year. In addition to the trustees, these committees included 71 other appointed committee members and 20 members of staff. Each committee member was selected on the basis of his or her expertise in the particular matter before a committee.

FINANCE AND BUDGET

Total expenses for the Museum in the last three years were reported as follows:

<u>1988-89</u>	<u>1987-88</u>	<u>1986-87</u>
\$24,507,000	\$22,942,000	\$21,016,000

Set out below is a breakdown of these figures:

	<u>1988-89</u>	<u>1987-88</u>	<u>1986-87</u>
(a) Salaries and Benefits	18,119,000	17,468,000	15,424,000
(b) Transportation and Communications	706,000	666,000	574,000
(c) Services	2,658,000	2,156,000	2,304,000
(d) Supplies/Equipment	3,023,000	2,652,000	2,714,000

Allocation of the Museum's expenditures is determined by a process whereby the Director, after consultation with a staff/management advisory committee, prepares a draft budget based on department budget requests and institutional priorities. The draft budget is then reviewed by the advisory committee and presented to the Board of Trustees for discussion, modification and approval.

Operational funds for the Museum come from the following sources:

	June 1986	June 1989
Provincial Grant	85.57%	81.92%
Federal Grant	1.75%	0.81%
Admission Fee	8.15%	8.14%
Investment Income	0.56%	0.94%
Museum Programs	1.59%	3.47%
Museum Services	2.31%	3.21%
Sponsor Fees	0.07%	1.51%

The actual amounts of government grants over the last 4 years were:

1988-89	\$20,094,000
1987-88	\$18,818,000
1986-87	\$17,988,000
1985-86	\$16,720,000

The clear message from the Museum's management is that the Museum is not receiving sufficient funds to achieve its objectives. While it is recognized that the Province currently provides 82% of the Museum's budget, it is also pointed out that there is virtually no funding from the federal and municipal levels. The Board notes that despite the elimination of 30 positions over the last two years and the deferral of several programs, the Museum was able to balance its 1988-89 budget only after the Museum invested its reserves (over \$400,000) plus the interest from a one time facilities improvement grant. The Board predicts that there will be even greater financial pressures next year.

While funding from all government sources over the last three years has declined from 87.32% to 82.73% of the budget, the Museum's self-generated revenue has increased from 4.53% to 9.13%. The Museum has expanded its sponsorship campaigns for exhibitions as well as its wholesale business in museum related merchandise. In addition, Royal Ontario Museum Enterprises was formed in July, 1989, to assist in the development of new fund raising methods.

Under the Act, the Museum is given certain borrowing powers; however, the Museum cannot borrow more than \$100,000 in total without the approval of the Lieutenant Governor in Council. The Museum is also permitted to invest funds not immediately required for its purposes in such investments as is considered appropriate by the Board.

ACCOUNTABILITY AND CONTROL

The Museum is classified as a Schedule III agency. The relationship between Schedule III agencies and government is described by the Management Board of Cabinet as follows:

The ministry/agency relationship is the most arms' length with Schedule III agencies, due primarily to their larger partnership role with municipalities,

interest groups and individuals. The government does not have sole responsibility for such organizations although (by definition) it is the major partner.

Specific relationships will not conform to any set pattern but rather be customized and dependent on the terms and conditions of an agency's mandate, its funding arrangements, the reporting requirements, and the defined roles of the others involved. Nevertheless, the establishment of a good ministry/agency relationship is still critical.

The Museum's Board and senior management maintain regular, direct communications with Ministry officials. The Minister has a standing invitation to all Board meetings and the Ministry receives all Board minutes. A Liaison Committee of Museum senior management and Deputy Ministers meets a minimum of two times a year. At present, there is no memorandum of understanding between the Museum and the Ministry.

The Board is required to report annually to the Lieutenant Governor in Council.

The Museum is audited by the firm of Clarkson Gordon, whose audits are reviewed by the Provincial Auditor.

The Museum has not previously appeared before the Government Agencies Committee. The Museum was reviewed by the Standing Committee on Public Accounts in 1979.

RECOMMENDATIONS

Budget and Finances

The Board has clearly indicated that there is a growing pressure on its operating budget. In the past year the Museum was forced to make cuts in staff and programming, and had to dip into its reserves in order to balance its budget. The Board projects that these financial pressures will be even greater in the coming year.

The Board reports that provincial funds continue to account for the bulk (82%) of the Museum's operating budget. However, the Committee notes that the Museum has made significant efforts in recent years to raise funds from non-government sources.

In particular, the Museum has expanded its sponsorship campaigns as well as its retail and wholesale business in museum related merchandise. In addition, ROM Enterprises was formed in 1989 to develop new methods of fund raising. The Committee recognizes the Board's efforts in the area of fund raising and believes these should be continued.

The Committee therefore recommends that:

17. The Board should be commended for its efforts to raise funds from non-government sources and recommends that the Board continue to explore new opportunities for revenue generation.

Management and Operations

Under the directorship of Dr. T.C. Young, the Museum has taken a more populist direction in an effort to broaden its public appeal. While this approach has drawn some criticism from Museum purists, the Board firmly believes that the future of the Museum depends on its ability to grow with the times.

The Board indicated to the Committee that the Museum's new direction has not been readily accepted by the public. Recent exhibitions, such as the baseball exhibition, have not drawn well. The Board attributes poor attendance to a perception by the public that the presentation of "popular" exhibitions is not within the traditional role of a museum. The Board acknowledges, and the Committee agrees, that the Board will have to improve its marketing of the Museum in order to maintain and increase public support.

The Committee therefore recommends that:

18. The Board should develop a marketing strategy aimed at increasing public awareness of the Museum's evolving role, and increasing public interest in the Museum's new direction in the presentation of exhibitions.

Structure and Organization

At present, the Board consists of 21 trustees, three who are ex officio trustees; 15 who are appointed by the Lieutenant Governor in Council; and three who are elected by the

members of the Museum. The Committee is concerned that the present composition of the Board could be perceived to be unrepresentative of the community at large, particularly in light of the Museum's growing emphasis on populist objectives, and believes that community representation on the Board should be strengthened.

The Committee therefore recommends that:

19. **The Minister should review the composition of the Board, particularly with respect to the number of trustees elected by the members and staff of the Museum.**

STADIUM CORPORATION OF ONTARIO LIMITED

INTRODUCTION

On June 21, 1983, former Premier William Davis announced the appointment of a three person study group, the Stadium Study Committee, to examine the matters related to the construction of a domed stadium in Metropolitan Toronto.

Following public hearings and several visits to North American sports complexes, the Committee released its recommendations on February 3, 1984. One of the Committee's recommendations was that a crown corporation be established by the province to own and manage the stadium.

On June 15, 1984, Premier Davis announced the formation of a crown corporation to oversee the construction of a domed stadium. The corporation was established on August 1, 1984 by articles of incorporation under the Business Corporations Act, 1982 as Ontario Sports Stadium Corporation. The Corporation's name was changed to Stadium Corporation of Ontario Limited on August 27, 1984. All of the Corporation's issued shares are owned by the Province of Ontario, as represented by the Treasurer of Ontario and the Minister of Treasury and Economics. The sole objective of the Corporation is to conduct, operate and maintain a multi-purpose domed stadium in Metropolitan Toronto (SkyDome).

SkyDome was officially opened to the general public on June 3, 1989, although construction continues on a number of facilities within the SkyDome project. It is expected that all construction will be completed in early 1990.

Upon completion of construction, the Corporation will transfer all of its interest in SkyDome to an operating partnership. This partnership is to be formed between the Stadium Corporation of Ontario Limited, Dome Consortium Investments Inc. and possibly a publicly held corporation for the purposes of acquiring and operating SkyDome.

The Corporation has not been previously reviewed by the Standing Committee on Government Agencies, but was reviewed by the Standing Committee on Public Accounts in 1985-86 and in the fall of 1989.

MANDATE AND POWERS

The mandate and powers of the Corporation are set out under a Memorandum of Understanding between the Corporation and the Treasurer of Ontario and Minister of Treasury and Economics. The Memorandum provides that the Corporation is to build, operate and maintain a domed stadium in Metropolitan Toronto. In particular, the Corporation is authorized to make arrangements with the consortium of private investors with respect to the financing of the stadium, and to enter into construction and lease agreements. Subject to the approval of the Minister, the Corporation is authorized to "receive or take from any person by way of grant, gift, bequest or otherwise any property, real or personal, or any interest therein." The Corporation is also given authority to do all things "incidental or conducive to" realizing the objectives of the Corporation.

STRUCTURE AND ORGANIZATION

As required by the Business Corporations Act, 1982, the Corporation is governed by a Board of Directors. Currently, there are 12 members of the Board. All members were elected by the sole shareholder of the Corporation, in this case the Minister, with the prior approval of the Executive Council. A Chairman of the Board is designated by the Minister, with the approval of the Executive Council. Mr. P. Connell is the current Chairman and Mr. W.G. Davis is the Vice-Chairman. The Board met seven times in 1986, ten times in 1987 and nine times in 1988. Mr. C. Magwood was replaced by Mr. R. Peddie on September 5, 1989 as the President and Chief Executive Officer of the Corporation.

For the period 1986-1989, the Corporation employed the following staff at management level:

	<u>1988-89</u>	<u>1987-88</u>	<u>1986-87</u>
Elected officers	4	4	4
Other officers	2	2	0
Office staff	8	6	4
Professional support staff	<u>11</u>	<u>2</u>	<u>0</u>
TOTAL	25	14	8

As of July 19, 1989, the Corporation employed 101 full-time staff (including the officers noted above) and had a pool of 420 "event" staff, for a total of 521 employees.

The following is an organizational chart for SkyDome.

MANAGEMENT AND OPERATIONS

Under the terms of the Memorandum of Understanding, the Board of Directors is required to manage the business affairs of the Corporation in accordance with policies established by the Minister. Specifically, the Board’s management role includes:

- enacting bylaws regulating the conduct and management of the Corporation, subject to the approval of the Minister;
- appointing a Chief Executive Officer, with the Minister’s approval, to serve for such period, and upon such terms and conditions and paid such remuneration as is set by the Board of Directors;
- preparing an annual multi-year corporate plan prior to the beginning of each fiscal year, to be approved by the Minister;
- establishing audit committees as set out in section 157 of the Business Corporations Act, 1982.

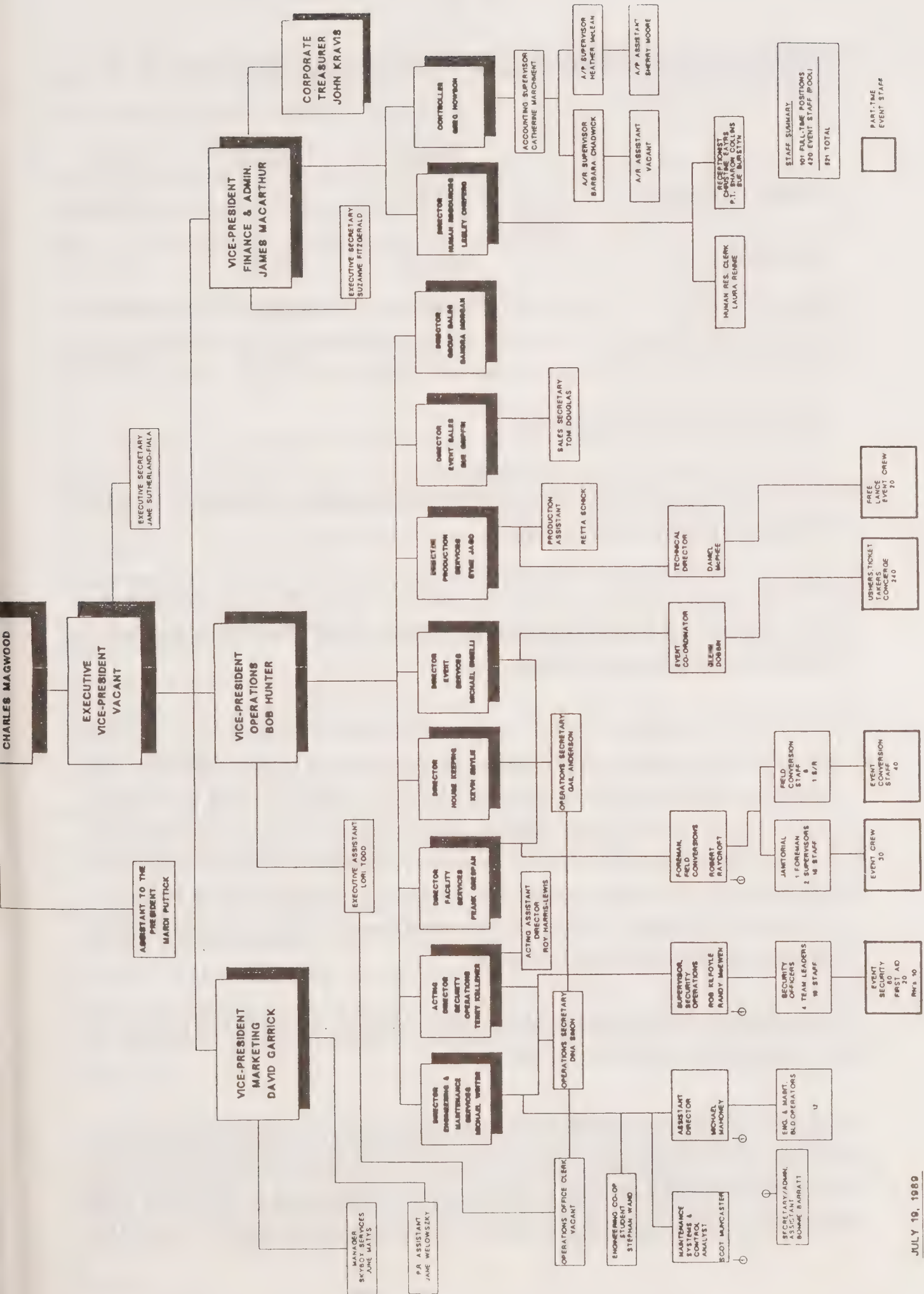
The Memorandum provides that the members of the Board of Directors are to be paid only "such reasonable and actual expenses as are incurred by the Directors in the performance of their duties on behalf of the Corporation." The Directors receive no other remuneration.

BUDGET AND FINANCE

The Corporation’s total expenditures for the last three years were reported as follows:

<u>1988-89</u>	<u>1987-88</u>	<u>1986-87</u>
\$183,308,042	\$102,027,324	\$31,819,940

The Corporation follows generally accepted accounting principles appropriate to a commercial operation. There are no additional services provided by the Ministry that are not reflected in the expense figures.



Operating expenses for the previous three fiscal years were broken down by the Corporation as follows:

	<u>1988-89</u>	<u>1987-88</u>	<u>1986-87</u>
a) Salaries and benefits	\$1,473,275	\$935,399	\$403,621
b) Transportation and Communications	\$80,123	\$65,509	\$31,416
c) Services*	\$480,698	\$478,566	\$440,629
d) Supplies and equipment	\$58,744	\$44,466	\$40,406

*Includes rentals and general expenses.

Allocation of the Corporation's expenditures is determined by the Board of Directors and the sole shareholder, the Minister.

Funding for the construction phase of SkyDome was provided by the Province of Ontario, the Municipality of Metropolitan Toronto, private companies, internally generated revenue and bank financing.

In 1985-86 the Corporation received a capital grant from the Province out of provincial lottery funds in the amount of \$30 million, and an operating grant of \$500,000. The Province has advanced to the Corporation a loan of \$5,766,250, which is currently interest free, but which will bear interest at prime rates and will be repayable over seven years from the date SkyDome becomes fully operational. The Province is also a guarantor of a line of credit arranged with the CIBC, in proportion to the Province's contribution to SkyDome. The Corporation states that the level of provincial funding is adequate to achieve its desired objectives.

The Municipality of Metropolitan Toronto has contributed a grant of \$30 million, and \$27.7 million has been received to date.

As of July 31, 1989, the private consortium consisted of 29 Canadian corporations. Each consortium member has contributed \$5 million in return for preferred rights in the supply of goods and services, in the allocation of seating, and in advertising within the stadium for a ten year period valued at \$4.2 million, with an option to extend the

preferred rights for a further three year period valued at \$300,000. The final \$500,000 buys a share of Dome Consortium Investments Inc.

The Consortium members have also subscribed for shares of the private company which will eventually form a partnership with the Stadium Corporation and possibly a publicly held corporation to acquire and operate SkyDome.

As of December 31, 1988, three other corporations had contributed \$3.5 million and had made loans of \$1.35 million each to the Corporation. In return for an additional \$150,000 each, the corporations will receive advertising and promotional rights.

The Corporation has sold the rights to the use of 110 spectator boxes for a ten year period. Subscribers were given the option of pre-paying the full amount for the ten year period or paying on an annual basis. The Corporation has received \$26,200,000 from 16 subscribers who pre-paid for ten years, and \$15,675,000 for pre-payment of the last year's licence fees from those subscribers paying on an annual basis.

The Corporation has also received applications for the purchase of rights to Club seats for a ten year period. As of December 31, 1988, the Corporation had raised a total of \$20,269,000 from the sale of 5,671 Club seats.

On July 13, 1989, the Board of Directors approved revised construction costs at an estimated total of \$532.2 million, plus an estimated \$30.6 million for the acquisition and installation of a video scoreboard and other related equipment.

Funding for the operational phase of the SkyDome will be derived entirely from internally generated revenue. The Province will receive a share of SkyDome profits in proportion to its contribution. In this regard, Metropolitan Toronto's \$30 million contribution has been assigned to the province, so that the province will be deemed to have contributed \$60 million for the purposes of determining the province's contribution.

Under the Memorandum of Understanding, the Corporation is permitted to invest any surplus monies in government issued or guaranteed securities, guaranteed investment certificates, deposit notes and receipts and any other similar instruments issued or guaranteed by a chartered bank, and such other securities as are authorized by the Minister.

ACCOUNTABILITY AND CONTROL

The Corporation is classified as a Schedule II agency. As such, the Corporation manages its own administrative support and its employees are not appointed under the Public Service Act. The Corporation must adhere to the administrative policies and procedures established by the Manual of Administration.

Representatives of the Ministry monitor expenditures and activities through direct participation in all meetings of the Board of Directors and the Board's Finance Committee. There is also ongoing informal communication between the Corporation and Ministry officials.

Under the terms of the Memorandum of Understanding, the Corporation is required to prepare, each year, a multi-year corporate plan which must be approved by the Minister. The plan must identify all categories of capital and operational expenditures and commitments, including any lease arrangements proposed to be entered into by the Corporation. The Corporation cannot enter into any major capital expenditures or commitments without the approval of the Minister.

The terms of the Memorandum also require the Corporation to submit to the Minister status reports in the form of quarterly variance reports from the approved corporate plan and quarterly capital expenditures status reports.

The Board of Directors must submit to the Minister an annual report, together with audited financial statements, within six months of the end of each financial year. To date, the Corporation has not published an annual report.

The Corporation is audited by the accounting firm of Clarkson Gordon. The Provincial Auditor also performed a review of the Corporation's December 31, 1987 Audited Financial Statements and related working papers.

RECOMMENDATIONS

The Committee wishes to make some general comments about the role of the Corporation, and the public's perception of the SkyDome project generally.

The Committee is concerned that the public does not have a clear understanding of how the SkyDome is presently being run, nor is it clear how the SkyDome will be operated in the future. Evidence presented to the Committee suggests that, while the Corporation is technically a Schedule II crown agency responsible to the Ministry of Treasury and Economics, it is, in reality, operating as an independent agency. Although the Ministry has regular contact with the Corporation's management, and Ministry officials attend all Board meetings, the Committee was left with the impression that the Ministry's role in the decision-making process has essentially been a passive one. Moreover, while the partnership agreement guarantees provincial control, in terms of representation, of the management board of the partnership, the history of how decisions have been made suggests that the province will exert little influence in decision-making at SkyDome. As a result, the actual extent of public control over the project is unclear. The Committee believes that the Corporation's role must be clarified for the public.

The Committee is also concerned about the public's perception of business dealings at SkyDome. While the Committee does not wish to comment on the propriety of such benefits as preferred suppliers and advertising rights, and the allotment of box seating, the Committee notes that there is a real danger that these benefits could be perceived by the public as creating a conflict of interest situation. In addition, the Committee detects a lack of understanding on the part of the public of who the "players" are in the SkyDome project, what rights they have, how SkyDome contracts are awarded, and how SkyDome generally does business. The Committee strongly believes that all of these matters should be clearly spelled out so that the public fully understands what stake it has in SkyDome.

Structure and Organization

Upon completion of construction of all SkyDome facilities, the corporation will form a partnership with the private consortium members for the purposes of operating SkyDome. Under the terms of the partnership agreement, SkyDome will be run by a management board composed of representatives appointed by the Corporation and by the private consortium members. The agreement stipulates that the Corporation must have two more members on the board than the total representation of the private consortium members. Each consortium member will be represented on the Board. It

is anticipated that the management board for the partnership will consist of at least 58 members. The Committee is concerned about the effectiveness of such a large board and feels that the proposed membership of the partnership management board should be significantly reduced in order to enhance the management efficiency of the board.

The committee therefore recommends that:

20. **Consideration should be given to reducing the proposed number of members of the management board for the partnership between the Corporation and the private consortium.**

Accountability and Control

The Committee notes that, although the Memorandum of Understanding between the Corporation and the Ministry requires the Corporation to submit an annual report to the Minister, no annual report has been submitted to date. The Committee recognizes that a certain degree of independence is essential to the functioning of an operation with a significant private-sector component; however, this Committee believes that some method of formal accountability should be maintained.

The Committee therefore recommends that:

21. **The Corporation should submit annual reports to the Minister.**

When the Corporation enters the partnership with the private consortium members, it will be entering a new phase of the SkyDome project. Moreover, the Corporation will be subject to the terms of a new partnership agreement. In light of the changing role of the Corporation, and the new conditions under which it will be operating, it is the view of the Committee that the operations of the Corporation should be reviewed following the effective date of the partnership.

The Committee therefore recommends that:

22. **The operations of the Corporation should be reviewed by the Standing Committee on Government Agencies one year from the date on which the partnership between the Corporation and the private consortium members takes effect.**

SkyDome Study

The SkyDome represents a unique collaboration of the public and private sectors in the construction of a large-scale project. The Committee believes that the project could serve as a valuable precedent for future joint ventures involving the public and private sectors.

The Committee therefore recommends that:

23. A study of the SkyDome project should be conducted to assess the effectiveness of public and private sector joint ventures in carrying out large-scale projects.

ONTARIO FRENCH LANGUAGE SERVICES COMMISSION

INTRODUCTION

The Ontario French Language Services Commission was created to operate for a period of three years. The legislation to provide for French language services in the Government of Ontario, the French Language Services Act, 1986, defines the terms and responsibilities of the Ontario French Language Services Commission. The Commission reviews the availability and quality of French language services, recommends the designation of public service agencies and their locations, and advises on other matters related to francophone services.

The Ontario French Language Services Commission is an advisory agency and does not deliver direct services to client groups. An advisory agency provides information to the government that will assist in the development of policy or the ongoing delivery of programs. It reports to the Minister Responsible for Francophone Affairs and is part of the Cabinet Office.* The Commission is responsible for making recommendations to the Minister and Cabinet and furthermore deals with requests from Cabinet and the Legislative Assembly.

The scope of the Commission as outlined in the Annual Report (1986 - 1987) covers the following functions and duties:

The Commission deals primarily with government ministries, agencies, boards and commissions. However, it enjoys relative autonomy vis-à-vis the government in that it submits its annual report directly to the Speaker of the Legislative Assembly and may make the plans of government agencies for the provision of French language services public as well as its recommendations for changes to these plans or on proposed exemptions from the Act.

It also works in consultation with governmental and non-governmental bodies interested in the issues pertaining to the francophone population of the province. For instance, it takes an active interest in the relevant functions of the Office of Francophone Affairs, the work of the Council for Franco-Ontarian Education, the activities of the Association canadienne-français de l'Ontario and participates in the meetings of the government's Interministerial Committee of French Language Services Coordinators.

* A francophone is commonly defined as an individual who speaks French fluently, as a mother tongue or a second language, regardless of nationality.

The Commission began its regular meetings in January 1987. The chairman's role has entailed meetings with government ministries, educational institutions, agencies, interest groups and professional bodies. As outlined in the Annual Report (1986-1987), the Commission has carried out its responsibilities which have included the following:

- reviewing the Commission's mandate;
- studying the provisions of the French Language Services Act, 1986 and its implications; and
- familiarizing members with the workings of the government, the programs and services of its ministries, agencies, and transfer payment agencies totally or partially funded by the government.

The Commission will be disbanded in November 1989 at which time the legislative guarantees of the Act will take effect. The responsibilities of the Commission will be assumed by the Office of Francophone Affairs when the Commission is dissolved. The Office of Francophone Affairs establishes the policy framework for the development of French language initiatives and services for the Government of Ontario. The Minister Responsible for Francophone Affairs is the central advisor to the Government on French language services and more generally on French communities throughout Ontario. As explained in the summary of the Act, the Minister supported by the Office of Francophone Affairs will have a mandate to develop and coordinate the policies and programs of the government relating to francophone affairs and the provision of French language services. The functions of the Minister are to:

- prepare and recommend government plans, policies and priorities for the provision of French language services;
- coordinate, monitor and oversee the implementation of programs of the government for the provision of French language services by government agencies and of programs relating to the use of the French language;
- investigate and respond to public complaints respecting the provisions of French language services;
- require the formulation and submission of plans and fix time limits for their formulation; and
- refer matters to the Ontario French Language Services Commission for its report and recommendations within such times as the Minister may specify, for the three year period.

COMMISSION'S MANDATE

The Commission has a three-year mandate ending in November 1989. This mandate will not be modified during this period according to the Minister. The Commission's principal function as explained in the Annual Report (1987-88) is to advise on and assist the Government of Ontario in the effective implementation of the Act. It accomplishes this by making recommendations regarding implementation to ministries and their agencies. As specified in the French Language Services Act, 1986, s. 15(3), it may:

- review the availability and quality of French language services and make recommendations for their improvement;
- recommend the designation of public service agencies and the addition of designated areas to the schedule of the Act;
- require non-profit corporations and similar entities, psychiatric and residential facilities administered by ministries, and colleges of applied arts and technology, to furnish to the Commission information that may be relevant in the formulation of recommendations respecting their designation as public service agencies;
- recommend changes in the plans of government agencies for the provision of French language services and make the plans and recommendations public;
- make recommendations in respect of an exemption or proposed exemptions of French language services under clause 8(1)(d)* and make the recommendations public.

The Commission's recommendations are taken into consideration in the making of decisions under the Act and are admissible as evidence in a proceeding. The Commission performs any other functions assigned to it by the Minister responsible for Francophone Affairs, the Executive Council or the Legislative Assembly.

Its mandate, according to the Commission's assessment, does not conflict with or overlap the mandate of any other government agency at either the provincial or federal levels and it is the Commission's view that the implementation of French language services is a gradual undertaking and the objectives are well in the process of being realized.

* The Lieutenant Governor in Council may make regulations, exempting services from the application of sections 2 and 5 where, in the opinion of the Lieutenant Governor in Council, it is reasonable and necessary to do so and where the exemption does not derogate from the general purpose and intent of this Act. (French Language Services Act, 1986, s. 8(1)(d)).

The Commission, in fulfilling its mandate, has been active in a number of areas with a particular focus. In the Annual Report (1987-88) the Commission elaborated on its mandate as follows:

- The Commission believes it is important to remember that the Act's guarantee of services in French in designated areas does not affect existing rights accorded to Ontario citizens.
- The Commission favours services that have an impact on the French-speaking population as a whole, and believes that institutions and programs that facilitate the homogeneous grouping of users in an environment and atmosphere that is French speaking, are the most effective.
- The Commission will continue to encourage members of the French-speaking community to become involved in the administration of government-funded agencies to ensure that their community is adequately represented.
- The Commission encourages municipal governments in designated areas to take the initiative in providing services in French.

Furthermore, in meeting the requirements of its mandate, the Commission has identified areas of concern which have been described as follows in the most recent Annual Report:

- The low rate of participation by the French-speaking population in post-secondary educational institutions is a major issue. The Commission advocates an increase in the number of French language programs and services, and considers the training of specialists to ensure the provision of professional services in French of paramount importance.
- The Commission is concerned with challenges in the areas of day-care, literacy, and professional development.
- With respect to health, social, cultural and community services, the Commission believes the designation of public service agencies is an important area which should be dealt with as soon as possible.
- The Commission recognizes the need to promote the proactive delivery of French legal services, and to increase the number of bilingual professionals to better serve the population.
- The Commission also believes that some type of mechanism should be developed to monitor the availability and quality of services provided in French.

LEGISLATION

The French Language Services Act, 1986 is the enabling legislation authorizing the creation of the Ontario French Language Services Commission. The preamble of the Act recognizes "the contribution of the cultural heritage of the French-speaking population" and the need "to preserve it for future generations." As explained in the Annual Report (1987-88), the Act enables the French-speaking population to make a greater contribution to the economic, political, social and cultural life on Ontario, and favours the growth of the province as a whole. The scope of the Act, as outlined in the Annual Report (1986-1987 and 1987-1988), is as follows:

- The Act gives, from November 18, 1989, any individual or corporate entity the right to receive services in French from the Government of Ontario in designated areas of the province. It ensures that all ministries, boards, commissions and corporations, the majority of whose members or directors are appointed by the Lieutenant Governor in Council, will provide French language services in all head or central offices as well as in specified offices located in or serving designated areas. In addition, non-profit provincially funded corporations that provide services to the public, psychiatric and residential facilities that are administered by ministries, and colleges of applied arts and technology may be designated to provide services in French. A university may also be designated if it consents to its designation.
- Over thirty ministries will provide French language services, along with approximately two hundred public service agencies including the Workers' Compensation Board, Ontario Hydro, the Liquor Control Board of Ontario, and the Ontario Food Terminal Board.
- The Act does not, however, apply to municipal governments but allows the council of a municipality in a designated area to pass a by-law providing for the administration of the municipality to be conducted in both English and French and for all or specified municipal services to the public to be made available in both languages.
- When a by-law is in effect, a person has the right to communicate in English or French with any office of the municipality, and to receive available services to which the by-law applies, in either language.
- Where an area designated in the Schedule is in a metropolitan or regional municipality and the council of a municipality in the area passes a by-law, the council of the metropolitan or regional municipality may also pass a by-law in respect of its administration and services.
- The Act provides that by 1992, laws will be translated and tabled for passage in the Legislative Assembly. Henceforth, all laws will be available in English and French. The Act also provides for the translation of those regulations which the Attorney General deems appropriate.

Cabinet may determine designated areas by regulation. Regulations have not been prepared to apply to the operation of the Ontario French Language Services Commission.

The French Language Services Act, 1986's Implementation Procedure Manual prepared by the Office of Francophone Affairs outlines the implementation requirements of the Act. The Manual explains that:

The French Language Services Act guarantees to all persons and corporate entities the right to communicate with the government and to receive services in French.

This guarantee comes into effect three years after the Act received Royal Assent and applies to the head offices of all ministries, agencies, boards and commissions, and institutions of the Legislature. It also applies to offices of ministries, agencies and the Legislature located in designated areas named in the schedule to the Act, and to regional/field offices which serve designated areas even though those offices themselves are not situated in a designated area.

All services to the public covered by the Act, whether internally called a service or a program, must be in place by November 18, 1989.

The Manual elaborates on the specific requirements of the Act with respect to the following subject areas:

- services (information services, hearings, exemptions, etc.);
- human resources (linguistic training, etc.);
- integrating French language services planning;
- responsibilities and processes for French language services implementation;
- designation procedures (e.g., ministries and ABCs);
- in-ministry process; and
- user's guide to the forms.

STRUCTURE AND ORGANIZATION

The Commission reports to the Minister Responsible for Francophone Affairs and has a full-time chairman, and four part-time members selected from outside the Ontario Public Service. The appointments were made in November 1986 for a three-year term. Also, a senior official of the Office of Francophone Affairs is a member by virtue of the office, but shall not have a vote.

Agency Type

As a Schedule I advisory agency, the Commission is subject to the guidelines, directives and administrative requirements that apply to agencies of this type. There are no internal operating manuals, guidelines or policy directives in addition to the management guidelines and directives as set out by the Management Board of Cabinet. Furthermore, a corporate plan is not required for the Commission.

The Management Board of Cabinet's Guidelines manual sets out that these agencies:

- are funded out of the Consolidated Revenue Fund (CRF) or out of monies collected from the public by means of levies;
- are able to adhere to all management and administrative directives established by the Management Board;
- have their administrative-support services provided by the responsible ministry, unless the agency is of a sufficient size as to be able to provide its own support services in a more efficient and effective manner; and
- appoint staff under the Public Service Act.

Board of Commission

The following are presently members of the governing board of the Commission:

<u>Name</u>	<u>Position</u>	<u>Date of Appointment</u>
Gérard Raymond	Chairman	June 29, 1988
Marcel-André Sauv�	Member	January 18, 1989
Marc-Yvain Giroux	Member	November 26, 1988
Marie-Paule Poulin	Member	November 26, 1988
A. Patterson Webster	Member	November 26, 1988
R�my M. Beauregard	Ex-Officio Member	N/A

Personnel

There is a staff of six full-time employees comprised of three program analysts, one administrative officer and two secretaries.

Employees are appointed under the Public Service Act for the performance of the Commission's functions. The following summary sets out the staff complement since 1986.

	<u>1987-88</u>	<u>1986-87</u>
Government appointees (Chairman)	1	1
Elected officers	0	0
Other officers	0	0
Office staff (Clerical)	2	2
Professional support staff:		
Full time: Analysts	3	1
Administrative	1	1
Part time: Consultants	<u>0</u>	<u>0</u>
TOTAL (full-time)	7	5

MANAGEMENT AND OPERATIONS

For administrative purposes, the Commission operates under the direction of the Cabinet Office. The legislation specifies that the Commission is responsible to the Minister Responsible for Francophone Affairs. The Executive Director of the Office of Francophone Affairs is a member but is without voting privileges.

The Ontario French Language Services Commission staff members meet regularly with the Office of Francophone Affairs and sit on committees set up by the Office of Francophone Affairs. There is a regular exchange of information between the Commission and the Office of Francophone Affairs, according to the Minister.

Memorandum of Understanding

The Memorandum of Understanding established the following parameters for the Commission.

- (a) personnel transaction on behalf of the Commission shall be the responsibility of the Commission and shall be in accordance with approved Government procedures and as established by the Cabinet Office and the Personnel Branch of the Ministry of Treasury and Economics;

- (b) administrative support will be provided by the Ministry of Treasury and Economics through its standing arrangements with the Cabinet Office;
- (c) the Commission shall follow the Management Board of Cabinet Directives and Guidelines and Cabinet Office policies and procedures in all cases, except where specific exemption is given by the Cabinet Office;
- (d) the Chairman and employees of the Commission are appointed and work under the provisions of The Public Service Act (R.S.O. 1980, c 418, and amendments), and enjoy the same benefits, rights and privileges as accorded civil servants and subject to their individual contracts, if any.

Commission's Activities

The Annual Report (1987-1988) outlined the Commission's past accomplishments with a focus on implementation plans, designations and studies. The activities of the final year are explained in this Annual Report.

Agenda 1987-1988

The Commission's activities as explained in the Annual Report (1987-1988) have included the following:

- analysis of 30 implementation plans which includes a comprehensive review and recommendations for revisions;
- studies to determine the availability and quality of French Language services in the following bodies and general areas:
 - Ministry of Skills Development;
 - Alfred College of Agriculture and Food Technology;
 - a study of legal services in Northern Ontario;
 - a study of the socio-demographic profile of the French-speaking population of Ontario; and
 - a study of the availability and quality of French health and social services in designated areas;
- the Commission has accepted numerous speaking engagements to explain the Act; and
- a pilot project was set up in the Sudbury region to identify people's expectations with respect to the Act.

Current Agenda

In the third and final year the Commission will finalize its program before its responsibilities are fully assumed by the Office of Francophone Affairs. The

Committee's agenda for the 1988-1989 period includes the following items as set out in the most recent Annual Report:

- to ensure that government services are in place to meet the needs of the French-speaking population under the Act;
- to concentrate on certain key issues such as the recruitment of bilingual personnel, language training, and law enforcement;
- to monitor the implementation of French language services within the various ministries to ensure that information is made available to the public, and that French language services are actively promoted;
- to encourage members of the French-speaking community to become involved in the administration of government-funded agencies to ensure that their community is adequately represented;
- to examine the question of updating various ministries' plans and, if necessary, make recommendations for their improvement;
- to fulfill its responsibilities with regard to the designation of public service agencies; and
- to deal with possible exemptions to the Act but expects that these will be rare.

The Commission has reached several conclusions during its tenure, as set out in the Annual Report (1987-1988):

- the Commission encourages the Government of Ontario to make a concerted effort with regard to language training to allow employees at all levels to participate actively in the provision of French language services;
- the Commission is conscious of the urgent need to develop staffing procedures within the various ministries in order to ensure that competent personnel can provide quality French language services;
- the Commission believes that provincially funded services falling under municipal jurisdiction in designated regions are an area of concern. These services are essential to the community but may elude the full scope of the Act. The Commission encourages the Government of Ontario to develop strategies to ensure that provincially-funded services provided by municipalities are made available in French to the French-speaking community;
- the Commission is fully aware that it may not always be possible to provide full service in French. Remote areas and large urban centres will present a challenge in the provision of these services, particularly in highly specialized fields;
- the Commission is concerned about the low rate of participation by the French-speaking population in post-secondary educational institutions;

- The Commission is encouraging the development of permanent mechanisms designed to increase the number of French-speaking students at the post-secondary level in the province, and promoting the rationalization of post-secondary French language education;
- the Commission advocates an increase in the number of French language programs and services, and considers the training of specialists to ensure the provision of professional services in French of paramount importance.

BUDGET AND FINANCE

The Commission is responsible to the Minister responsible for Francophone Affairs and the estimates are transmitted to the Legislature through the Minister.

Memorandum of Understanding

The Commission's Memorandum of Understanding established the following financial requirements:

- all funding for the Commission shall be through approved appropriations based on estimates developed by the Commission, approved by the Minister, Cabinet Office, and by the Management Board of Cabinet;
- the Chairman is empowered to exercise spending authority (i.e. the authority to incur expenditures) on behalf of the Commission up to the levels authorized in the approved appropriations, and in accordance with the signing authority delegated to him by the Secretary of Cabinet;
- commission expenditures must comply with Management Board of Cabinet Directives and Guidelines, and the administrative policies, procedures and directives issued by the Cabinet Office from time to time;
- approval of expenditure documentation for payment of Commission expenditures will be in accordance with approved Government procedures and as established by the Cabinet Office and the Accounts and Office Services Branch of the Ministry of Treasury and Economics;
- financial transactions on behalf of the Commission shall be the responsibility of the Commission and shall be in accordance with approved Government procedures and as established by the Cabinet Office and the Accounts and Office Services Branch of the Ministry of Treasury and Economics.

Commission Budget

The total expenses of the Commission over the last three year period were reported as follows:

<u>1988-89</u>	<u>1987-88</u>	<u>1986-87</u>
\$666,000	\$536,899	\$81,499 (3 months only) (Jan.-Mar. 31/87)

It should be noted that the Office of Francophone Affairs' communications and legal services are available to the Commission, and that the cost of these services is not taken into account.

The Commission's expenses for the three years can be broken down as follows:

	<u>1988-89</u>	<u>1987-88</u>	<u>1986-87</u>
Salaries and benefits	\$337,100	\$295,668	\$30,251
Transportation and Communications	85,000	43,092	18,004
Services	250,000	183,381	31,392
Supplies and equipment	<u>22,000</u>	<u>14,758</u>	<u>1,852</u>
Total	694,100 <u>28,100*</u> 666,000	536,899	81,499

*Less: across the board budget cut of 28,100

The estimates for the Commission for the periods 1987-88 and 1988-89, including those for the Francophone Affairs Program, are as follows in this report. The Minister responsible for Francophone Affairs presents the Commission's annual budget to the Legislative Assembly through the normal estimates process, which is the source of funding. According to Commission, the current level of funding is adequate to achieve the objectives as set out.

Estimates

Ontario French Language Services Commission (Cabinet Office)

	<u>1988-89</u>	<u>1987-88</u>
Salaries and wages	\$286,900	\$274,500
Employee benefits	50,200	48,000
Transportation and communication	85,000	85,000
Services	250,000	250,000
Supplies and equipment	<u>22,000</u>	<u>22,000</u>
	\$694,100	\$679,500
Total for Francophone Affairs Program	<u>\$3,584,600</u>	<u>\$3,475,800</u>

The remuneration for board members is governed by the following guidelines. The Chairman's position is currently classified at the Deputy Minister level. The members are remunerated according to Management Board of Cabinet guidelines. The ex officio member, as the senior official of the Office of Francophone Affairs, is not remunerated by the Commission. The Commission held its first meeting in 1987.

ACCOUNTABILITY AND CONTROL**Memorandum of Understanding**

The Memorandum of Understanding was concluded by the new Chairman of the Commission and the Minister responsible for Francophone Affairs on September 13, 1988.

The Memorandum is between the Minister Responsible for Francophone Affairs and the Ontario French Language Services Commission. It outlines the reporting relationships of the Commission, its mandate, and the administrative procedures of the Commission's operation.

The following overview is a summary of the role of the Commission and its reporting relationship. The financial and administrative relationships are addressed in the Budget and Finance and secondly the Management of Operations sections of this report respectively. The Minister and the Office of Francophone Affairs have major roles in the affairs of the Commission, as explained in the memorandum:

- The functions of the Minister are to develop and co-ordinate the policies and programs of the government relating to francophone affairs and the provision of French language services.
- The functions of the Office are to assist the Minister and to support the Commission in fulfilling their responsibilities under the Act.

Role of the Commission

The Commission may perform the following under the Memorandum of Understanding.

- review the availability and quality of French language services and make recommendations for their improvement;
- recommend the designation of public service agencies and the addition of designated areas to the schedule of the Act;
- require non-profit corporations and similar entities, facilities, homes and colleges referred to in the definition of "government agency" to furnish to the Commission information that may be relevant in the formulation of recommendations respecting their designation as public service agencies;
- recommend changes in the plans of government agencies for the provision of French language services and make the plans and recommendations public;
- make recommendations in respect of an exemption or proposed exemption of services under clause 8 (1)(d) of the Act and make the recommendations public, and shall perform any other function assigned to it by the Minister Responsible for Francophone Affairs, the Executive Council or the Legislative Assembly.

The Commission's reporting requirements are explained in the sub-section of the Memorandum of Understanding entitled Reporting Procedures in this Section.

Sunset Review/Assessments

The Commission has not been the subject of an evaluation or sunset review by the Management Board of Cabinet, a government agency, external consultants or an internal review. As provided for in the French Language Services Act, 1986, the Commission will be dissolved on November 18, 1989.

Accountability

The Commission is responsible to the Minister Responsible for Francophone Affairs. As explained in the summary of the Act by the Office of Francophone Affairs, the deputy minister of each ministry will be accountable for the implementation of the Act and for the quality of French language services provided within that ministry. A

French language services co-ordinator shall be appointed for each ministry of the government and may communicate directly with the deputy minister. The co-ordinators will form an interministerial committee, which will be chaired by the senior official of the Office of Francophone Affairs.

Legislative Committee Reviews

The Committee has not appeared before a Committee of the Legislature within the last three years.

Audit

The Commission is audited by the Provincial Auditor and by the Internal Audit Branch of the Ministry of Treasury and Economics. It has not been audited by external auditors or other internal ministry auditors. The Commission is part of the Cabinet Office whose audits cover the operations of the Commission.

The February 1988 audit of the Cabinet Office by the Provincial Auditor (Reporting and Standards Branch) was undertaken "to determine whether financial controls over expenditures were adequate and expenditures made were in accordance with government policies."

It was concluded that:

- the Office had good financial controls over expenditures and the expenditures tested were found to be in accordance with government policies.

It was recommended that:

- the French Language Services Commission, being a schedule 1 advisory agency, prepare a Memorandum of Understanding.

The Provincial Auditor noted that:

- the Internal Audit Branch of the Ministry of Treasury and Economics recently audited the Office's contract tendering process. As a result we were able to reduce the scope of our review in the expenditure area. The Internal Audit

report concluded that while controls were to be satisfactory, there was a need for a central coordinating function within the Cabinet Office, and a formal process for administering contracts. The Cabinet Office is currently taking measures to implement the Internal Audit recommendations.

The Cabinet Office explained that none of these recommendations apply to the Commission.

Reporting Procedures

As set out in the Act, the Commission shall, after the close of each fiscal year, submit an annual report upon the affairs of the Commission to the Speaker of the Legislative Assembly.

As set out in the Memorandum of Understanding:

- the Commission shall report on a functional basis directly to the Minister to whom it is responsible;
- the Commission shall report directly to Cabinet Office for administrative and financial purposes, and Cabinet Office may, from time to time, provide administrative direction on Government policy;
- for administrative purposes and in the application of The Public Service Act, the Secretary of Cabinet will exercise the authorities and responsibilities of a Deputy Minister for the Commission and the Office;
- the Commission shall prepare and disseminate an annual report and submit it to the Minister for information;
- reports and recommendations by the Commission shall be prepared by the Commission and submitted to the Minister for information; and
- the Commission shall be audited by the Internal Audit Branch of the Ministry of Treasury and Economics, and the Provincial Auditor.

Dissolution of the Commission

The Act specifies that the Commission be dissolved three years after coming into force and that the functions of the Commission will be performed by the Office of Francophone Affairs.

RECOMMENDATIONS

The Chairman of the Commission, Gérard Raymond, appeared before the Committee on March 22, 1989. Since the Commission is to be sunsetted on November 18, 1989, the Committee requested the Commission give its view on the merits of continuing the Commission beyond the sunset date. Mr. Raymond presented the Commission's position in this regard to the Committee on August 29, 1989.

By way of background, the Commission noted that for the last three years ministries have been planning and implementing French language services. However, due to constraints on resources, some ministries will not have fully implemented programs by November 19, 1989, as contemplated by the Act. The Commission identified the following work that will have to be done after the dissolution of the Commission:

- maintenance of existing programs;
- interim measures;
- compliance plans;
- human resource plans;
- designation of public service agencies;
- exemptions;
- designation of areas.

While the responsibilities of the Commission will be assumed by the Office of Francophone Affairs after November 18, 1989, the Commission believes that community participation will continue to play an essential role in the implementation of French language service programs. To facilitate this partnership between community and government, the Commission recommended that an organization, the Council on French Language Services, be established to serve as a sounding board for the Minister Responsible for Francophone Affairs. The Commission would be sunsetted in accordance with the Act.

The Council on French Language Services, unlike the French Language Services Commission, would be contained within the infrastructure of the Office of Francophone Affairs. The main responsibilities of the Council, as envisioned by the Commission, would be to advise the Minister Responsible for Francophone Affairs with respect to:

- **Services and Programs**
 - quality and availability of French language services;
 - provision of services and programs in French;
 - implementation of interim measures, compliance and human resource plans;
 - implementation of designation plans for public service agencies;
 - exemption requests under the Act.
- **Government Policies**
 - planning and implementation of services and programs;
 - designation of public service agencies;
 - addition of designated areas to the Schedule of the Act;
 - amendments to the Act.

The Council would be composed of a Chairman, representatives of the government ministries directly affecting the francophone community, and two or three senior civil servants of deputy minister rank. The Council would submit an annual report to the Minister responsible.

In addition, the Commission recommended that those ministries which have not already done so, should establish French language advisory committees, and that the chairpersons of those committees should also sit on the Council of French Language Services.

The Commission further recommended that the new Council be operational from the date the French Language Services Commission is dissolved. In the view of the Commission, the work still to be done following the dissolution of the Commission will take at least three years to complete. Accordingly, the Commission recommended that the mandate of the Council be reviewed at the end of its third year.

The Committee believes that it is not in a position to make recommendations with respect to the continuation of the French Language Services Commission, nor does the Committee believe that it should comment on the Commission's proposal for a Council for French Language Services.

Minority Opinion

Appendix D to this report contains the minority opinion and recommendations of the Progressive Conservative Party members of the committee with respect to the French Language Services Commission.

LA COMMISSION DES SERVICES EN FRANÇAIS DE L'ONTARIO

INTRODUCTION

La Commission des services en français de l'Ontario a été créée pour une durée de trois ans. La loi prévoyant la prestation de services en français par le gouvernement de l'Ontario, à savoir la Loi de 1986 sur les services en français, définit le mandat et les fonctions de la Commission des services en français de l'Ontario. La Commission examine la disponibilité et la qualité des services en français, recommande la désignation des organismes publics et de leurs établissements et donne son avis sur d'autres questions touchant les services francophones.

La Commission des services en français de l'Ontario étant un organisme consultatif, elle ne fournit pas de services directs aux groupes visés. Un organisme consultatif fournit au gouvernement les données propres à faciliter l'élaboration de ses politiques ou la prestation de ses programmes. Elle relève du ministre délégué aux Affaires francophones et fait partie du Bureau du Conseil des ministres.* La Commission est chargée de faire des recommandations au ministre et au Conseil des ministres; elle traite aussi des demandes émanant du Conseil des ministres et de l'Assemblée législative.

Le champ d'action de la Commission, tel qu'il est décrit dans son Rapport annuel de 1986-1987, comprend les fonctions et les obligations suivantes :

La Commission traite principalement avec les ministères, agences, organismes et commissions du gouvernement. Elle possède toutefois une certaine autonomie à l'égard du gouvernement, étant donné qu'elle présente son rapport annuel directement au président de l'Assemblée législative et qu'elle peut rendre publics les projets d'organismes gouvernementaux pour la prestation de services en français, de même que ses recommandations visant à modifier ces projets ou portant sur des demandes d'exemption à la Loi.

La Commission travaille de concert avec les organismes publics et privés qui s'intéressent aux questions se rapportant à la population francophone de la province. Par exemple, la Commission s'intéresse de près aux fonctions pertinentes de l'Office des affaires francophones, aux travaux du Conseil de l'éducation franco-ontarienne, aux activités de l'Association canadienne-française de l'Ontario et participe aux réunions du Comité interministériel des coordonnateurs des services en français.

* Un francophone s'entend ordinairement d'une personne qui parle couramment le français, à titre de langue maternelle ou de langue seconde, quelle que soit sa nationalité.

La Commission a commencé à se réunir régulièrement dès janvier 1987. Son président a rencontré les représentants de ministères, d'établissements d'enseignement, d'organismes, de groupes de pression et de milieux professionnels. Comme le souligne son Rapport annuel (1986-1987), la Commission s'est acquittée de ses fonctions, qui consistaient, notamment, à :

- examiner son mandat;
- étudier les dispositions de la Loi de 1986 sur les services en français et leurs répercussions, et
- se familiariser avec l'organisation interne du gouvernement, les programmes et les services de ses ministères, de ses organismes et de ses agences de paiement de transfert qu'il subventionne entièrement ou partiellement.

La Commission sera dissoute en novembre 1989, lorsque les garanties juridiques de la Loi entreront en vigueur. Après la dissolution de la Commission, ses fonctions seront remplies par l'Office des affaires francophones. L'Office des affaires francophones formule les politiques touchant l'élaboration des mesures et des services offerts en français par le gouvernement ontarien. Le ministre délégué aux Affaires francophones est le principal conseiller du gouvernement en ce qui concerne les services en français et les collectivités francophones de l'Ontario. Comme l'explique le sommaire de la Loi, le ministre appuyé par l'Office des affaires francophones a pour mandat d'élaborer et de coordonner la politique et les programmes du gouvernement en ce qui concerne les affaires francophones et la prestation des services en français. À ces fins, il peut :

- préparer et recommander les projets, les politiques et les priorités du gouvernement en ce qui concerne la prestation des services en français;
- coordonner, contrôler et surveiller la mise sur pied des programmes du gouvernement visant à la prestation des services en français par les organismes gouvernementaux et des programmes concernant l'emploi de la langue française;
- faire enquête sur les plaintes des membres du public en ce qui concerne la prestation des services en français et répondre à ces plaintes;
- exiger l'élaboration et la présentation des projets et impartir des délais relatifs à cette élaboration;
- renvoyer des questions devant la Commission des services en français de l'Ontario afin qu'elle fasse rapport et formule des recommandations dans les délais qu'il précise, au cours de la période de trois ans susmentionnée.

MANDAT DE LA COMMISSION

La Commission a un mandat de trois ans qui expire en novembre 1989. Selon le ministre, ce mandat ne sera pas modifié au cours de cette période. Comme l'explique son Rapport annuel (1987-1988), la principale fonction de la Commission est de conseiller et de soutenir le gouvernement de l'Ontario dans le cadre de l'application efficace de la loi en faisant les recommandations sur sa mise en oeuvre aux ministères et à leurs organismes. Comme le précise le paragraphe (3) de l'article 15 de la Loi de 1986 sur les services en français, la Commission peut :

- examiner la disponibilité et la qualité des services en français et faire des recommandations en vue de leur amélioration;
- recommander la désignation des organismes offrant des services publics et l'ajout de régions désignées à l'annexe de la Loi;
- exiger que des personnes morales sans but lucratif et des organismes semblables, ainsi que des établissements psychiatriques et d'hébergement administrés par les ministères et les collèges d'arts appliqués et de technologie lui fournissent des renseignements qui peuvent être pertinents en ce qui concerne la formulation de recommandations au sujet de leur désignation en tant qu'organismes offrant des services publics;
- recommander des modifications aux projets des organismes gouvernementaux en ce qui concerne la prestation des services en français et informer le public des projets et de ses recommandations;
- faire des recommandations en ce qui concerne l'exemption ou l'exemption proposée d'un service aux termes de l'alinéa 8 (1) d)* et informer le public de ces recommandations.

On tient compte des recommandations de la Commission lors de toute décision prise aux termes de la Loi. Ces recommandations constituent une preuve admissible lors d'une instance. La Commission remplit également les fonctions qui lui sont assignées par le ministre délégué aux Affaires francophones, le Conseil des ministres ou l'Assemblée législative.

Selon la Commission, son mandat n'entre en conflit avec celui d'aucun autre organisme public, provincial ou fédéral, ni ne le recoupe. La Commission considère également que la mise en oeuvre des services en français est un processus graduel et que les objectifs sont en bonne voie de réalisation.

- * Le lieutenant-gouverneur en conseil peut, par règlement, exempter des services de l'application des articles 2 et 5 si, de l'avis du lieutenant-gouverneur en conseil, cette mesure s'avère raisonnable et nécessaire et si elle ne porte pas atteinte à l'objet général de la présente loi (alinéa 8 (1) d) de la Loi de 1986 sur les services en français).

La Commission s'est acquittée de son mandat en intervenant dans un certain nombre de domaines d'une façon bien précise. Dans son Rapport annuel (1987-1988), la Commission présente son mandat dans ces termes :

- La Commission croit qu'il est important de rappeler que la Loi garantit la prestation de services en français dans les régions désignées et ne porte pas atteinte aux droits déjà acquis des citoyens de la province.
- La Commission privilégie les services touchant l'ensemble de la population de langue française en Ontario et croit que les établissements et les programmes qui facilitent le regroupement homogène des usagers dans un milieu et une ambiance francophones sont les plus efficaces.
- La Commission continuera d'encourager les francophones à faire partie des conseils d'administration d'organismes subventionnés, favorisant ainsi la représentation efficace de francophones au sein des organismes offrant des services publics.
- La Commission encourage les municipalités situées dans les régions désignées à prendre l'initiative d'offrir leurs services en français.

En outre, en remplissant les termes de son mandat, la Commission a identifié les domaines de préoccupation suivants dans son plus récent rapport annuel :

- En ce qui a trait à l'enseignement postsecondaire, le taux peu élevé de fréquentation des francophones de l'Ontario constitue une préoccupation majeure de la Commission. Celle-ci préconise l'accroissement des programmes d'étude et des services en français, et accorde la plus haute importance à la formation de spécialistes afin d'assurer la prestation de services professionnels en français.
- La Commission est préoccupée par les problèmes rattachés au domaine des garderies, de l'alphabétisation et de la formation professionnelle.
- Quant aux domaines de la santé et des services sociaux, culturels et communautaires, la Commission estime que les divers intervenants devraient s'adonner à la désignation d'organismes subventionnés dans les meilleurs délais.
- La Commission tient aussi à promouvoir les principes de l'offre active dans le domaine des services juridiques, et croit qu'il faudra accroître le nombre de professionnels bilingues afin de mieux servir la population.
- En outre, la Commission croit qu'il est important de créer des mécanismes qui permettront de vérifier l'accessibilité et la qualité des services offerts en français.

LÉGISLATION

La Loi de 1986 sur les services en français est la loi qui autorise la création de la Commission des services en français de l'Ontario. Le préambule de la Loi reconnaît «l'apport du patrimoine culturel de la population francophone» et la nécessité de «le sauvegarder pour les générations à venir». Comme l'explique le Rapport annuel (1987-1988) de la Commission, la Loi facilitera la pleine contribution des francophones à la vie économique, politique, sociale et culturelle de l'Ontario et favorisera le développement de la province tout entière. Selon le Rapport annuel de la Commission (tant celui de 1986-1987 que celui de 1987-1988), le champ d'action de la Loi est le suivant :

- La Loi accorde, à compter du 18 novembre 1989, à tout particulier ou à toute personne morale, le droit de recevoir des services en français du gouvernement de l'Ontario dans les régions désignées de la province. Elle prévoit que les ministères, les conseils, les commissions et les personnes morales dont la majorité des membres ou des administrateurs sont nommés par le lieutenant-gouverneur en conseil offriront des services en français à leur siège ou administration centrale, de même que dans des bureaux particuliers qui se trouvent dans les régions désignées ou qui servent ces régions. Des personnes morales sans but lucratif qui sont subventionnées par le gouvernement provincial et qui offrent des services au public, des établissements psychiatriques, des foyers et des maisons administrés par un ministère, de même que des collèges d'arts appliqués et de technologie peuvent aussi être désignés. Une université peut être désignée pour offrir des services en français si elle consent à cette désignation.
- Une trentaine de ministères offriront des services en français en plus des quelque deux cents organismes publics tels que la Commission des accidents du travail, Hydro Ontario, la Régie des alcools et la Commission du Marché des produits alimentaires de l'Ontario.
- La Loi ne s'applique pas aux municipalités, mais elle permet toutefois au conseil d'une municipalité située dans une région désignée d'adopter un règlement prévoyant que l'administration de la municipalité se fera en français et en anglais, et que les services municipaux offerts au public, ou une partie précisée de ceux-ci, seront fournis dans ces deux langues.
- Lorsqu'un règlement municipal est en vigueur, chacun a droit à l'emploi du français ou de l'anglais pour communiquer avec tout bureau de la municipalité et pour recevoir les services visés par le règlement.
- Si une région désignée à l'annexe fait partie d'une municipalité régionale ou de communauté urbaine et que le conseil d'une municipalité située dans la région adopte un règlement, le conseil de municipalité régionale ou de communauté urbaine peut également adopter un tel règlement en ce qui concerne son administration et ses services.
- La Loi prévoit que, d'ici 1992, toutes les lois seront traduites et présentées à l'Assemblée législative pour adoption. Ainsi, toutes les lois seront disponibles dans les deux langues. Le procureur général est également tenu de faire traduire les règlements dont il juge la traduction appropriée.

Le Conseil des ministres peut déterminer les régions désignées par règlement. Il n'existe aucun règlement visant le fonctionnement de la Commission des services en français de l'Ontario.

Le Guide de mise en oeuvre de la loi sur les services en français découlant de la Loi de 1986 sur les services en français, préparé par l'Office des affaires francophones, décrit les étapes nécessaires à la mise en oeuvre de la Loi. Le guide précise que :

La Loi sur les services en français garantit à toute personne, physique ou morale, le droit de communiquer avec le gouvernement, et de bénéficier des services de ce dernier, en français.

Cette garantie prend effet trois ans après l'octroi de la sanction royale à la loi en cause et vise l'administration centrale de tous les ministères, organismes, conseils, commissions et institutions de la Législature. Elle vise également les bureaux des ministères, organismes et institutions gouvernementales situés dans les régions désignées énumérées à l'Annexe de la loi, ainsi que les bureaux régionaux et locaux desservant les régions désignées, quand bien même que ces bureaux ne seraient pas, eux-mêmes, situés dans de telles régions.

Tous les services à la population visés par la susdite loi, que leur appellation interne soit "service" ou "programme", doivent être en place d'ici le 18 novembre 1989.

Le guide s'étend sur les dispositions particulières de la Loi en ce qui a trait aux domaines suivants :

- services (services d'information, audiences, exemptions, etc.);
- ressources humaines (formation linguistique, etc.);
- planification intégrée des services en français;
- processus de mise en place des services en français et responsabilités connexes;
- procédure de désignation (désignation de ministères et d'organismes, conseils ou commissions);
- marche à suivre à l'intérieur des ministères; et
- guide de l'utilisateur relatif aux formulaires.

STRUCTURE ET ORGANISATION

La Commission, qui relève du ministre délégué aux Affaires francophones, se compose d'un président à plein temps et de quatre membres à temps partiel choisis à l'extérieur de la fonction publique de l'Ontario; ses membres ont été nommés en novembre 1986 pour un mandat de trois ans. Un haut fonctionnaire de l'Office des affaires francophones est membre d'office de la Commission, mais n'a pas droit de vote.

Type d'organisme

En tant qu'agence de niveau I, la Commission est sujette aux directives et exigences administratives qui s'appliquent à de tels organismes. Son fonctionnement interne n'est assujéti à aucune règle, ni ligne directrice ni directive autres que celles établies par le Conseil de gestion du gouvernement. En outre, la Commission n'est pas tenue de se doter d'un plan général.

Le manuel intitulé Guidelines du Conseil de gestion du gouvernement stipule que ces organismes :

- sont subventionnés par le Fonds du revenu consolidé, ou à même les sommes prélevées auprès du public.
- doivent adhérer à toutes les directives de gestion et d'administration établies par le Conseil de gestion;
- font appel aux services de soutien administratif du ministère dont ils relèvent, à moins que l'organisme soit de taille à fournir ses propres services de soutien d'une manière plus efficace; et
- engagent leur personnel en vertu de la Loi sur la fonction publique.

Membres de la Commission

La Commission comprend les personnes suivantes :

<u>Nom</u>	<u>Titre</u>	<u>Date de nomination</u>
Gérard Raymond	Président	29 juin 1988
Marcel-André Sauvé	Membre	18 janvier 1989
Marc-Yvain Giroux	Membre	26 novembre 1988
Marie-Paule Poulin	Membre	26 novembre 1988
A. Patterson Webster	Membre	26 novembre 1988
Rémy M. Beauregard	Membre d'office	s. o.

Personnel

Parmi les six employés à plein temps qui forment le personnel, on compte trois analystes de programme, un agent administratif et deux secrétaires.

Les employés sont nommés en vertu de la Loi sur la fonction publique pour exécuter les fonctions de la Commission. Le sommaire suivant décrit le personnel depuis 1986.

	<u>1987-1988</u>	<u>1986-1987</u>
Personnes nommées par le gouvernement (président)	1	1
Responsables élus	0	0
Autres responsables	0	0
Personnel de bureau	2	2
Personnel professionnel de soutien :		
À plein temps : Analystes	3	1
Personnel administratif	1	1
À temps partiel : Experts-conseils	<u>0</u>	<u>0</u>
TOTAL (à plein temps)	7	5

GESTION ET FONCTIONNEMENT

Pour les besoins administratifs, la Commission opère sous la direction du Bureau du Conseil des ministres. La Loi spécifie que la Commission relève du ministre délégué aux Affaires francophones. Le directeur général de l'Office des affaires francophones est membre d'office de la Commission, mais n'a pas droit de vote.

Les membres du personnel de la Commission des services en français de l'Ontario rencontrent régulièrement ceux de l'Office des affaires francophones et siègent aux comités formés par ledit Office. Selon le ministre, il y a un échange régulier d'information entre la Commission et l'Office des affaires francophones.

Protocole d'entente

Le protocole d'entente établit les paramètres suivants pour la Commission :

- la dotation en personnel de la Commission est la responsabilité de la Commission et se fait selon les méthodes approuvées par le gouvernement et établies par le Bureau du Conseil des ministres et la Direction du personnel du ministère du Trésor et de l'Économie;
- la Commission reçoit un soutien administratif du ministère du Trésor et de l'Économie par le biais d'arrangements permanents avec le Bureau du Conseil des ministres;

- c) la Commission suit les lignes directrices et les directives du Conseil de gestion du gouvernement ainsi que les politiques et méthodes du Bureau du Conseil des ministres dans tous les cas, sauf en cas d'exemption spécifique donnée par le Bureau;
- d) le président et les employés de la Commission sont nommés et travaillent selon les dispositions de la Loi sur la fonction publique (L.R.O. 1980, chap. 418 et ses modifications), et jouissent des avantages, droits et privilèges accordés aux fonctionnaires, sous réserve de leur contrat de travail, le cas échéant.

Activités de la Commission

Le Rapport annuel (1987-1988) souligne le travail accompli par la Commission, surtout en ce qui concerne les plans de mise en oeuvre, les désignations et les études. Les activités de la dernière année sont décrites dans ce Rapport annuel.

Programme 1987-1988

Les activités de la Commission, telles qu'elles sont décrites dans le Rapport annuel (1987-1988), comprennent ce qui suit :

- une analyse de 30 plans de mise en oeuvre comprenant une étude exhaustive et des recommandations de révision;
- des études permettant d'évaluer la disponibilité et la qualité des services en français dans les organismes et les domaines suivants :
 - le Ministère de la Formation professionnelle;
 - le collège de technologie agricole et alimentaire d'Alfred;
 - les services juridiques dans le Nord de l'Ontario;
 - le profil des francophones en Ontario; et
 - la disponibilité et la qualité des services sociaux et de santé dans des régions désignées;
- la Commission a répondu à de nombreuses invitations dans le but d'expliquer le sens et la portée de la Loi; et
- la Commission a mis sur pied un projet pilote dans la région de Sudbury afin de déterminer les attentes de la population à l'égard de la Loi.

Programme actuel

Dans sa troisième et dernière année, la Commission mènera son programme à bien. Après sa dissolution, ses fonctions seront remplies par l'Office des affaires francophones. La Commission décrit ainsi son programme pour l'exercice 1988-1989 dans son plus récent Rapport annuel :

- assurer la mise en place de services publics en fonction des besoins de la population francophone, conformément à la Loi;
- se concentrer sur des questions clés telles que le recrutement de personnes bilingues, la formation linguistique et l'exécution de la loi;
- veiller à la mise en place des services en français dans les différents ministères pour assurer l'accès du public à l'information et la promotion active des services en français;
- encourager les membres de la communauté francophone à participer à l'administration des organismes subventionnés pour favoriser la représentation efficace des francophones au sein des organismes offrant des services publics;
- examiner l'opportunité de mettre à jour les plans des ministères et, s'il y a lieu, faire des recommandations précises quant à leur amélioration;
- s'acquitter de ses responsabilités en ce qui concerne la désignation d'organismes offrant des services publics; et
- s'intéresser à la question des exemptions à la Loi, qu'elle prévoit rares.

La Commission en est arrivée à plusieurs conclusions durant le terme de son mandat, comme le précise son Rapport annuel (1987-1988) :

- la Commission encourage le gouvernement de l'Ontario à déployer des efforts concertés en matière de formation linguistique afin de permettre aux employés de tous les niveaux de participer de façon constructive et permanente à la prestation de services en français;
- la Commission est consciente de la nécessité pressante d'élaborer une stratégie de recrutement au sein des ministères afin que du personnel possédant les compétences linguistiques requises soit affecté à la prestation des services en français;
- la Commission considère que les services subventionnés par le gouvernement de l'Ontario et administrés par les municipalités dans les régions désignées constituent un élément important des services à la communauté qui risquent d'échapper à la Loi. La Commission encourage le gouvernement à mettre au point des stratégies pour que les services financés par la province et offerts par l'intermédiaire des municipalités rejoignent la population francophone;
- la Commission est consciente qu'il ne sera pas toujours possible de rendre accessibles en français tous les services. Les domaines très spécialisés, les régions isolées et les grands centres urbains constituent un défi particulier;
- la Commission s'inquiète du faible taux de fréquentation des établissements postsecondaires par les francophones;
- la Commission encourage la mise sur pied de mécanismes permanents visant l'augmentation de la fréquentation des établissements postsecondaires chez les francophones ainsi que la rationalisation de l'enseignement postsecondaire offert en français dans la province;
- la Commission préconise l'accroissement des programmes d'études et des services en français, et accorde la plus haute importance à la formation de spécialistes afin d'assurer la prestation de services professionnels en français.

BUDGET ET FINANCE

La Commission relève du ministre délégué aux Affaires francophones, qui transmet les prévisions budgétaires de la Commission à l'Assemblée législative.

Protocole d'entente

Le protocole d'entente de la Commission établit les besoins financiers de la manière suivante :

- le budget de la Commission proviendra de crédits approuvés, fondés sur les prévisions de la Commission approuvées par le Ministre, le Bureau du Conseil des ministres et le Conseil de gestion du gouvernement;
- le président a le pouvoir d'autoriser les dépenses au nom de la Commission jusqu'aux plafonds autorisés dans les crédits approuvés et conformément au pouvoir qui lui est délégué par le secrétaire du Conseil des ministres;
- les dépenses de la Commission doivent respecter les lignes directrices et les directives du Conseil de gestion du gouvernement, ainsi que les règles administratives, méthodes et directives adoptées par le Bureau du Conseil des ministres de temps à autre;
- l'autorisation des instruments de règlement des dépenses de la Commission se fait conformément aux méthodes de l'Administration approuvées et établies par le Bureau du Conseil des ministres et la Direction des services de bureau et des comptes du ministère du Trésor et de l'Économie;
- les opérations financières menées au nom de la Commission sont la responsabilité de la Commission et respectent les méthodes de l'Administration approuvées et établies par le Bureau du Conseil des ministres et la Direction des services de bureau et des comptes du ministère du Trésor et de l'Économie.

Budget de la Commission

Le total des dépenses de la Commission au cours des trois derniers exercices est le suivant :

<u>1988-1989</u>	<u>1987-1988</u>	<u>1986-1987</u>
666 000 \$	536 899 \$	81 499 \$ (3 mois seulement) (De janvier au 31 mars 1987)

Il faut souligner que les services de communications et les services juridiques de l'Office des affaires francophones sont à la disposition de la Commission, et que le coût de ces services n'est pas pris en considération.

Les dépenses de la Commission au cours des trois mêmes exercices peuvent se ventiler comme suit :

	<u>1988-1989</u>	<u>1987-1988</u>	<u>1986-1987</u>
Salaires et avantages sociaux	337 100 \$	295 668 \$	30 251 \$
Transport et communications	85 000	43 092	18 004
Services	250 000	183 381	31 392
Fournitures et matériel	<u>22 000</u>	<u>14 758</u>	<u>1 852</u>
Total	694 100	536 899	81 499
	<u>28 100</u> *		
	666 000		

* Moins des coupures budgétaires automatiques de 28 100 \$

Les prévisions budgétaires de la Commission pour les exercices de 1987-1988 et 1988-1989, y compris celles du Programme des affaires francophones suivent. Le ministre délégué aux Affaires francophones soumet le budget annuel de la Commission à l'Assemblée législative dans le cadre du processus habituel d'examen des prévisions budgétaires, qui assure le financement de la Commission. Selon la Commission, les crédits qui lui sont actuellement affectés lui permettront d'atteindre les objectifs qu'elle s'est fixés.

Prévisions budgétaires

Commission des services en français de l'Ontario (Bureau du Conseil des ministres)

	<u>1988-1989</u>	<u>1987-1988</u>
Salaires	286 900 \$	274 500 \$
Avantages sociaux	50 200	48 000
Transport et communications	85 000	85 000
Services	250 000	250 000
Fournitures et matériel	<u>22 000</u>	<u>22 000</u>
	694 100 \$	679 500 \$
Total pour le Programme des affaires francophones	<u>3 584 600</u>	<u>3 475 800</u>

La rémunération des membres de la Commission est régie par les lignes directrices suivantes. Le poste du président est présentement classifié dans la catégorie des sous-ministres. La rémunération des membres est conforme aux lignes directrices du Conseil de gestion du gouvernement. Le membre d'office, qui est un haut fonctionnaire de l'Office des affaires francophones, n'est pas rémunéré par la Commission. La Commission s'est réunie pour la première fois en 1987.

OBLIGATION REDDITIONNELLE ET RAPPORTS HIÉRARCHIQUES

Protocole d'entente

Le président de la Commission et le ministre délégué aux Affaires francophones ont conclu un protocole d'entente le 13 septembre 1988.

Ce protocole lie le ministre délégué aux Affaires francophones et la Commission des services en français de l'Ontario. Il trace, dans leurs grandes lignes, les rapports hiérarchiques auxquels est soumise la Commission, ainsi que son mandat et les méthodes administratives qui régissent son fonctionnement.

Nous proposons maintenant un survol du rôle de la Commission et des rapports hiérarchiques auxquels elle est soumise. Les rapports d'ordre financier et administratif sont traités à la section du présent rapport intitulée "Budget et finance" et à la section intitulée "Gestion et fonctionnement", respectivement. Le ministre et l'Office des affaires francophones jouent un rôle prépondérant dans les affaires de la Commission, comme l'explique le protocole.

- Le ministre élabore et coordonne la politique et les programmes du gouvernement en ce qui concerne les affaires francophones et la prestation des services en français.
- L'Office est chargé d'assister le ministre et d'appuyer la Commission dans l'exercice de leur mandat en vertu de la Loi.

Rôle de la Commission

Selon le protocole d'entente, la Commission peut :

- examiner la disponibilité et la qualité des services en français et faire des recommandations en vue de leur amélioration;
- recommander la désignation des organismes offrant des services publics et l'ajout de régions désignées à l'annexe de la Loi;
- exiger que des personnes morales sans but lucratif et des organismes semblables, ainsi que des établissements, des foyers, des maisons et des collèges visés à la définition du terme «organisme gouvernemental» lui fournissent des renseignements qui peuvent être pertinents en ce qui concerne la formulation de recommandations au sujet de leur désignation en tant qu'organisme offrant des services publics;
- recommander des modifications au projet des organismes gouvernementaux en ce qui concerne la prestation de services en français et informer le public de ces projets et recommandations;

- faire des recommandations en ce qui concerne l'exemption ou l'exemption proposée de services aux termes de l'alinéa 8 (1) d) de la Loi, informer le public de ces recommandations, et remplir les fonctions qui lui sont assignées par le ministre délégué aux Affaires francophones, le Conseil des ministres ou l'Assemblée législative.

Les obligations redditionnelles de la Commission font l'objet de la sous-section intitulée "Méthode de reddition des comptes".

Évaluation

La Commission n'a fait l'objet d'aucune évaluation de la part du Conseil de gestion du gouvernement, d'un organisme étatique, d'experts-conseils externes ou d'un examen interne. Conformément à la Loi de 1986 sur les services en français, la Commission sera dissoute le 18 novembre 1989.

Obligation redditionnelle

La Commission relève du ministre délégué aux Affaires francophones. Comme l'explique le sommaire de la Loi publié par l'Office des affaires francophones, c'est le sous-ministre de chaque ministère qui est responsable de la mise en oeuvre de la Loi et de la qualité des services en français offerts par son ministère. Le coordonnateur des services en français, nommé au sein de chaque ministère de la province, peut communiquer directement avec son sous-ministre. Les coordonnateurs des services en français constituent un comité que préside le premier fonctionnaire de l'Office des affaires francophones.

Examen par un comité de l'Assemblée législative

La Commission n'a paru devant aucun comité de l'Assemblée législative au cours des trois dernières années.

Vérification

La Commission fait l'objet d'une vérification, de la part du vérificateur provincial et de la Direction de la vérification interne du ministère du Trésor et de l'Économie. Elle n'a fait l'objet d'aucune vérification de la part des vérificateurs externes ou d'autres vérificateurs de l'Administration. La Commission fait partie du Bureau du Conseil des ministres, dont les vérifications englobent le fonctionnement de la Commission.

La vérification de février 1988 du Bureau du Conseil des ministres par le vérificateur provincial (Direction des rapports et normes) visait à savoir si "les mesures de contrôle financier des dépenses étaient suffisantes et si les dépenses respectaient les orientations générales du gouvernement".

Cette vérification a permis de conclure que :

- l'Office disposait de bonnes mesures de contrôle financier de ses dépenses, et que les dépenses vérifiées étaient conformes aux orientations générales du gouvernement.

Elle recommandait cependant que :

- à titre d'agence de niveau 1, la Commission des services en français de l'Ontario prépare un protocole d'entente.

Le vérificateur provincial rapportait que :

- la Direction de la vérification interne du ministère du Trésor et de l'Économie venait de vérifier les méthodes d'appels d'offres de la Commission, ce qui lui permettait de réduire l'étendue de sa vérification des dépenses. Le rapport de cette direction concluait que, bien que les mesures de contrôle fussent satisfaisantes, la mise sur pied d'une fonction de coordination centrale s'imposait au sein du Bureau du Conseil des ministres, de même qu'un processus établi pour l'administration des contrats. Le Bureau prend les mesures nécessaires pour mettre en oeuvre les recommandations de la Direction de la vérification interne.

Le Bureau du Conseil des ministres a expliqué qu'aucune de ces recommandations ne s'appliquait à la Commission.

Méthode de reddition des comptes

La Loi décrète que, à la fin de chaque exercice, la Commission présente un rapport annuel au président de l'Assemblée législative. Le président dépose ensuite le rapport devant l'Assemblée.

Conformément au protocole d'entente,

- la Commission fait rapport de l'exercice de ses fonctions directement au ministre dont elle relève;
- la Commission fait directement rapport au Bureau du Conseil des ministres sur les plans administratif et financier, et le Bureau peut, de temps à autre, lui fournir des directives administratives relatives à la politique du gouvernement;

- aux fins administratives et à celles de la Loi sur la fonction publique, le secrétaire du Conseil des ministres exerce l'autorité et les responsabilités d'un sous-ministre relativement à la Commission et à l'Office;
- la Commission prépare et publie un rapport annuel et le soumet au ministre à titre d'information;
- la Commission élabore ses rapports et recommandations et les soumet au ministre à titre d'information; et
- la Commission fait l'objet d'une vérification de la part de la Direction de vérification interne du ministère du Trésor et de l'Economie, et de la part du vérificateur provincial.

Dissolution de la Commission

La Commission sera dissoute trois ans après sa constitution. Après la dissolution de la Commission, la Loi prévoit que ses fonctions seront remplies par l'Office des affaires francophones.

RECOMMANDATIONS

Le président de la Commission, M. Gérard Raymond, s'est présenté devant le Comité le 22 mars 1989. Étant donné que la Commission sera dissoute le 18 novembre 1989, le Comité a demandé à la Commission de donner son point de vue sur l'avantage qu'il y aurait de prolonger le mandat de la Commission au-delà de cette date. Le 29 août 1989, M. Raymond a présenté au Comité le point de vue de la Commission à ce sujet.

La Commission a d'abord fait remarquer que, depuis trois ans, les ministères planifient et mettent en place des services en français. Cependant, en raison de certaines contraintes budgétaires, certains ministères n'auront pas complété la mise en place des programmes d'ici le 19 novembre 1989, comme l'exige la Loi. La Commission a établi les mesures suivantes, qui devront être mises en oeuvre après la dissolution de la Commission :

- maintien des programmes existants;
- prise de mesures provisoires;
- élaboration de plans de conformité;
- élaboration de plans concernant les ressources humaines;
- désignation d'organismes offrant des services publics;
- choix des exemptions;
- désignation de régions.

Alors que les fonctions de la Commission seront remplies par l'Office des affaires francophones après le 18 novembre 1989, la Commission estime que la participation communautaire continuera de jouer un rôle essentiel dans la mise en oeuvre des programmes de prestation des services en français. Pour faciliter la collaboration entre les collectivités et le gouvernement, la Commission recommande la constitution d'un Conseil sur les services en français pour servir de conseiller officieux au ministre délégué aux Affaires francophones. La Commission sera alors dissoute conformément à la Loi.

Le Conseil des services en français, au contraire de la Commission des services en français, ferait partie de l'Office des affaires francophones. Les principales fonctions du Conseil, telles qu'elles sont envisagées par la Commission, seraient de conseiller le ministre délégué aux Affaires francophones en ce qui concerne :

- Les services et les programmes
 - qualité et disponibilité des services en français;
 - prestation de services et de programmes en français;
 - mise en place de mesures provisoires et de plans en matière de conformité et de ressources humaines;

- . mise en place de plans de désignation des organismes offrant des services publics;
- . demandes d'exemption en vertu de la Loi.

- **La politique du gouvernement**

- . planification et mise en place des services et des programmes;
- . désignation des organismes offrant des services publics;
- . ajout de régions désignées à l'annexe de la Loi;
- . modification de la Loi.

Le Conseil serait formé d'un président, de représentants des ministères ayant un effet direct sur la communauté francophone, et de deux ou trois hauts fonctionnaires ayant rang de sous-ministres. Le Conseil présenterait son rapport annuel au ministre délégué.

En outre, la Commission recommande que les ministères qui ne l'ont pas encore fait établissent des comités consultatifs sur les services en français, et que les présidents ou présidentes de ces comités siègent également au Conseil des services en français.

La Commission recommande également que le nouveau Conseil soit en place dès la dissolution de la Commission des services en français. Elle estime que le travail qui reste encore à faire après sa dissolution prendra au moins trois ans à accomplir. Par conséquent, la Commission recommande que le mandat du Conseil soit examiné à la fin de cette période de trois ans.

Le Comité ne se considère pas en mesure de faire des recommandations concernant la prolongation du mandat de la Commission des services en français, pas plus qu'il n'estime pouvoir commenter la proposition de la Commission visant la constitution d'un conseil des services en français.

Avis de la minorité

L'annexe D du présent rapport contient l'avis des membres du Comité appartenant au Parti progressiste-conservateur et leurs recommandations en ce qui a trait à la Commission des services en français de l'Ontario.

RENT REVIEW HEARINGS BOARD*

INTRODUCTION

The Rent Review Hearings Board (RRHB) performs the appeal function associated with Ontario's rent review program regulating rent increases for most of Ontario's private rental housing stock. Provision for the establishment of this Board is set under the authority of Ontario's rent review legislation - the Residential Rent Regulation Act, 1986 (s. 37) which is also known as "Bill 51." Following extensive public hearings and debate by the Resources Development Committee and in the Legislature, this legislation received Third Reading and Royal Assent in December, 1986.

Ontario's current rent review process consists of two stages, an initial administrative review and decision on the rent review application by the Rent Review Services Branch of the Ministry of Housing. At the second stage, landlords or tenants affected or dissatisfied by this decision may, as provided for in s. 101 of the legislation, appeal the initial administrative decision. The RRHB has been established as an independent quasi-judicial tribunal to perform this appeal function. Establishing an independent rent review appeal body in association with the 1985-86 reforms of rent review in Ontario was discussed in the Ministry of Housing and Liberal Government's position paper, Assured Housing for Ontario (1985, pp. 12-13).

The Board reports through its Chairman to the Minister of Housing. This Ministry also has related responsibility for the administration of the rent review program. In the Directives of Management Board of Cabinet, the RRHB is classified as a regulatory Schedule 1 agency.

The Board itself was actually established in March 1987 with the appointment of Dr. Ratna Ray as Chairperson and CEO. The Board has subsequently increased its complement to reflect the growing appeal workload. As of March 31, 1989, there were

* The information in this report has been compiled utilizing extensive background information filed with the Committee by the Rent Review Hearings Board and assembled by the Ontario Legislative Library. Extensive supplementary consultations were also held with: Dr. Ratha Ray, Chairman, Rent Review Hearings Board; Peter Hoy, Executive Assistant to Chairman; P. P. (Gulu) Chadha, Vice-Chairman and Registrar; David Burnside, Senior Legal Counsel; Pru D'Souza, Supervisor, Budgeting and Office Services, RRHB; and Michael Tasker, Senior Program Analyst, Rent Review Policy Branch, Ministry of Housing.

34 Board members including the Chairman and Vice-Chairman. Effective June 1, 1989, six more members were appointed to the Board to accommodate the increased workload, thereby raising the complement to 40. The Board tabled with the Committee biographical information on the members.

During 1987-88 the Board was primarily involved in "setting up shop", acquiring and training staff, and establishing procedures and its regional office structure. During this initial year the Board received 167 appeals, resolved 26 (16 percent of the total) with 141 outstanding (see Appendix-Table 1). During the subsequent year the number of appeals filed with the Board increased to 2,928. During 1988-89, the Board resolved 1,052 appeals (36 percent of the total) with 2,017 outstanding at year end (see Appendix-Table 1). Based upon supplementary testimony by Board officials before the Government Agencies Committee, it was indicated that as of June 9, 1989, 1,541 appeals were outstanding. A significant number of these appeals (i.e., an estimated 1,200 cases which should only require some 20 individual hearings) relate to "suite hotels" where the parties to these appeals have requested adjournments to further prepare their cases.

This increased volume of appeals reflects the increased number of rent review applications that have been resolved (see Appendix-Table 2) and which were subsequently appealed. At the end of March 1989, 26,467 rent review applications had been resolved, although this figure includes a substantial number of applications that had been withdrawn. The Board and the Ministry of Housing consider the appeal rate to be in the order of 20 percent, discounting appeals which are withdrawn. It would appear that in approximately 50 percent of the appeals heard the Hearings Board has set aside the orders issued by the first-level administrators. As the record of appeals evolves, this rate of appeal "successes" could encourage more parties to exercise their rights of appeal. This eventuality might serve to increase the volume of appeals.

As a final introductory note, it would appear that while the rent review program has generated extensive media coverage and political debate, there has been no indication per se that the appeal function as performed by the RRHB is at the centre of this attention. There has been general concern regarding the complexity, administrative cost and level of rent increases granted under rent review. In years to come, if a

discernible pattern should emerge regarding appeal decisions either affirming or setting aside first stage rent determinations, the appeal function may be more actively drawn into the public policy debate regarding rent review. Any perception of significant delay in the rendering of appeal decisions might also draw the Board into the public spotlight.

LEGISLATIVE AND REGULATORY FRAMEWORK

The Residential Rent Regulation Act, 1986, with the most pertinent sections highlighted below, is the primary piece of legislation governing the establishment and responsibilities of the Hearings Board. Part IV (ss. 37-53) sets out the establishment and membership of the Board, and Part VII (ss. 101-116) sets out the appeal functions of the Board.

Except for the Vice-Chairman of the Board, who is a member of the Ontario public service and is responsible for administrative affairs (ss. 38, 39 and 41), the Chairman and other Board members are Order-in-Council appointees.

Section 43(1) requires that Board members perform their duties on a full-time basis and "shall not accept or hold any office or employment inconsistent with such duties." However, this section has not yet been proclaimed because some members still hold dual appointments on a transitional basis to the Residential Tenancy Commission. This latter body was a component of Ontario's pre-1986 rent review system and a number of administrative matters still have to be finalized in this regard. Once these matters are disposed of, indications are that this section would be proclaimed. It is felt by senior rent review and appeal administrators that the current appeals workload and complexity of many appeal cases justifies the members being full-time employees rather than part-time hearings officers.

Section 43(2) requires members to "file with the Board a written declaration of any interests they have in residential rental property, and shall be required to comply with the conflict of interest guidelines established by the Board." For reasons similar to the previous subsection, this subsection has also not been proclaimed. The Board guidelines which were made available to the Government Agencies Committee outline more specific requirements for the disclosure of conflict of interest and the definition

of a requirement that Board members "must not carry on the business of being a landlord" (i.e., own four or more residential rental units or significant ownership in a corporation that owns or manages residential rental property).

Section 49 requires that every decision of the Board shall be upon the real merits and justice of the case.

Section 50 requires that the accounts of the Board shall be audited annually by the Provincial Auditor, and this requirement has been met for 1987 and 1988.

Section 51(1) requires the Board to file an annual report with the Minister of Housing, and the first Annual Report 1987-1988 was prepared.

Part VII (ss. 101-116) outlines the appeal provisions of the legislation which allow for the filing of appeals of rent review orders to be made within 30 days of the order (s. 101).

Under s. 103 an appeal shall be heard by a single member of the Board, or upon request by a panel of three Board members.

Section 104(1) makes provision for a pre-hearing conference to discuss the issues or other specified matters relating to the appeal.

Section 105(1) stipulates that the Statutory Powers Procedure Act applies to "proceedings by the Board in the exercise of a statutory power of decision."

Section 106(2) stipulates that "all policy guidelines or rules of procedure made by the Board . . . shall be made available for examination by the public." (In this regard copies of the Board's Procedures Manual and Draft Guidelines were filed with the Committee Clerk for reference by Members of the Government Agencies Committee.)

Section 111 provides that upon the completion of a hearing, the Board shall issue an order which may affirm, vary or substitute the original order of the Minister or first-level administrative rent review decision.

Section 115(1) allows for the appeal of an order of the Board, on a question of law, to the Divisional Court.

In addition to this primary impact of the enabling rent review legislation, the Board in its adjudicative and administrative functions has adhered to the requirements of the Freedom of Information and Protection of Privacy Act and French Language Services Act. In addition, basic information about the appeal process has been published in seven languages other than English or French for reference by tenants or landlords as a reflection of the multi-cultural nature of Ontario society.

STRUCTURE AND ORGANIZATION

The Board is structured so that the adjudicative arm is supported by the administrative arm. As of March 31, 1989, the 34 Board members (i.e., 32 Board members plus Chairman and Vice-Chairman) were supported by 98 permanent or contract/temporary staff (see Appendix-Table 3). As a reflection of its "getting up to speed" to perform its province-wide rent review appeal function, total complement at the Board increased from 28 at the end of fiscal year 1987 to 132 at the end of fiscal year 1989 (see Appendix-Table 3). It is anticipated that this staff complement could still increase modestly as the appeal workload matures. During the appearance by senior Board officials before the Government Agencies Committee on June 14, 1989, it was indicated that the number of Board members including the Chairman and the Vice-Chairman had increased to 40, with 101 support staff for a current complement of 141.

In addition to the head office in Toronto, the Board operates four regional offices in Sudbury (northern region), London (southwestern region), Ottawa (eastern region) and Toronto (central region).

BUDGET AND FINANCE

The Board receives its funding from the Consolidated Revenue Fund and Board estimates are considered as part of the estimates of the Ministry of Housing. For 1988-89 the estimates of the RRHB were considered as part of Vote 1904 (Housing Policy Program), Item 4 (Rent Review Boards Activity).

For 1987-88 and 1988-89, Board expenditures of \$4.24 million and \$8.39 million, respectively, accounted for 17 and 21 percent, respectively, of the costs of Ontario's rent review program (\$25.28 million in 1987-88; \$40.07 million in 1988-89) as recorded in the estimates of the Ministry of Housing. Total expenses of the Hearings Board have risen substantially since the 1986-87 formative period. Between 1987-88 and 1988-89, for example, total expenses of the Board rose from \$4.24 million to \$8.39 million, an increase of 98 percent (see Appendix-Table 4).

Of the expenditures noted for 1988-89, salaries and benefits amounted to \$4.24 million or 50.5 percent of the total. Of this amount, the preliminary figure for the remuneration of Board members for 1988-89, including the Chairman and Vice-Chairman, is some \$1.4 million. The pay scale for Board members, excluding the Chairman and Vice-Chairman, is equivalent to the AM 19 classification with a range of \$42,400-\$51,600 per annum. Three members are being paid above this range to reflect their continuing appointments to the Residential Tenancy Commission. The classification for the Chairman is at the ECP 3 level with a salary range of \$60,000-\$87,000. The Vice-Chairman is classified at the AM 22 level, with a salary range of \$53,400-\$67,200.

ACCOUNTABILITY AND CONTROL

Through its Chairman, the Board reports to the Minister of Housing. However, as a quasi-judicial tribunal the Board operates independently from government.

As a Schedule 1 agency, the Board must comply with established policies and guidelines related to finance, administration, human resources and other administrative matters. As noted earlier, the Residential Rent Regulation Act, 1986 (s. 50) requires that the accounts of the Board be audited annually by the Provincial Auditor. A memorandum of understanding between the Ministry of Housing and the Board has been drafted and should be finalized in the near future.

AGENCY REVIEWS

Due to the "newness" of the RRHB there is no indication that this Board has been analyzed in the Annual Report of the Provincial Auditor or by a Committee of the Ontario Legislature. The current review by the Standing Committee on Government Agencies is the first direct exposure of the Board to scrutiny by a Committee of the Ontario Legislature.

As required under the rent review legislation, the Board's Financial Statements for the fiscal years 1987 and 1988 were submitted to the Provincial Auditor for review. For these years the Auditor expressed the opinion that the "financial statement presents fairly the Board's expenditure for the year ended . . . in accordance with accounting policies. . . ."

The Board is also subject to audit by the Operations Review and Audit Branch of the Ministry of Housing, although there is no indication that the Board has been subject to such a review.

The consulting firm of Stevenson Kellogg Ernst and Whinney has been engaged to conduct an organizational review of the Board and the results of this study are expected to be available in the near future.

RECOMMENDATIONS

On June 14 and 21, senior staff of the RRHB, consisting of Dr. Ratna Ray, Chairman, P.P. (Gulu) Chadha, Vice Chairman, and David Burnside, Senior Legal Counsel made presentations to the Committee, and answered questions on the Board's operation. At the meeting of June 21 the Board tabled with the Committee supplementary tabular material relating to hearings locations, hearings held in regions by members, and statistics on timing of hearings and orders (see Appendix-Tables 5-8). During a further in camera meeting of June 28, the Committee considered the recommendations which appear herein. These were finalized by the Committee on August 10.

The Committee understands that until early 1988 the Board was largely involved in "setting up shop", engaging and training members and staff, and establishing its regional office structure. During the 1988-89 fiscal year and to the present, the volume of appeals has increased and the Board has begun in earnest to assume its primary "rent review appeal" function as stipulated under the Residential Rent Regulation Act, 1986.

The following recommendations reflect the Committee's mandate and deliberations on this agency. Consensus viewpoints are put forward with the premise that "there is always room for improvement." The Committee hopes that these recommendations, which are put forward to reflect each Committee member's interest in improving the

operation of the rent review system, are given serious and proper consideration by the Rent Review Hearings Board and/or the Minister/Ministry of Housing.

Suggestions for Administrative/Legislative Improvements to Rent Review System

Based upon the discussion before the Committee, it is understood that, as a body established under statute, the RRHB is strictly bound by its legislative framework. Nonetheless, since the Board is an integral part of Ontario's often controversial and complex rent review system, the Committee believes that Board members and senior staff might become aware of legislative or administrative issues that merit consideration for change while working within the system. For example, during the Board's appearance before the Committee it was indicated that the Vice-Chairman meets with the rent review management periodically and the Board would make reports to the Minister when requested. It was also indicated that over the longer term the Board is "tracking" areas of concern regarding the rent review legislation and the related appeal process. As reflected in the recommendations that follow, the Committee believes that there should be an appropriate and preferably public mechanism for the Board to systematically report such findings, or make such concerns known to the Minister of Housing.

It is hoped that through the appropriate identification and vetting of such concerns, periodic improvements can be made in the operation of the appeal process or other aspects of the rent review system.

The Committee therefore recommends that:

24. In the interest of better serving landlords and tenants in Ontario, the Rent Review Hearings Board, through the Chairman should, on a regular basis, report suggestions or identify concerns to the Minister of Housing respecting legislation, procedures or other matters which could improve the rent review appeal process or rent review in general. Such reports, after being received by the Minister, should be tabled in the Legislature.
25. The Annual Report of the Rent Review Hearings Board should contain a section which identifies significant administrative/legislative or other concerns or issues which may have an impact on the Board's effectiveness or the rent review system. Suggestions may also be made as to how these matters might be resolved.

Improved Dissemination of Rent Review Appeal and Rent Review Information to the Public

The Committee appreciates that the legislation and procedures associated with rent review are complex. Since many small landlords and tenants are unable to comprehend the legislation, they are not fully informed of their rights and obligations. The experience of Members in their constituencies is that these small landlords and individual tenants often do not have access to the sophisticated legal and professional support services available to major landlords or tenant groups in dealing with rent review matters. The wider dissemination of information and forms pertaining to rent review appeals and rent review in general is, therefore, in the interest of the many Ontarians concerned with, or affected by, rent review. Enhanced public awareness would also serve to improve the effectiveness of this major housing-related regulatory program. The Committee, for example, understands that rent review and appeal information and documentation are readily available through the four regional offices of the Board and the 21 offices of the Rent Review Services Branch of the Ministry of Housing.

The Committee therefore recommends that:

26. The Rent Review Hearings Board and Ministry of Housing should pursue initiatives to ensure that rent review and rent review appeal informational materials and forms are more widely available at appropriate public buildings across Ontario. This could, for example, include municipal offices and public libraries.
27. The Rent Review Hearings Board should continue to actively pursue initiatives, such as workshops for tenants and landlords in communities across Ontario, to explain better the rent review appeal and rent review systems. Printed materials on the rent review appeal process should continue to be ever more widely distributed to interested parties across Ontario.
28. The Rent Review Hearings Board should give consideration to developing a procedure, in cooperation with the Rent Review Services Branch of the Ministry of Housing, whereby hearing notices are systematically posted or made available in the appropriate Rent Review Services Branch local office.
29. The Rent Review Hearings Board and Ministry of Housing should, in conjunction with the Legislative Assembly, develop appropriate procedures to ensure that rent review and rent review appeal informational materials and forms are systematically made available to the constituency offices of Members of the Ontario Legislature.

Improvement in Rent Review Appeal Procedures

The Committee believes that the following specific recommendations could serve to improve the efficiency of the operation of the Board.

The Committee therefore recommends that:

30. To allow for the most efficient and informed disposition of appeals by the Rent Review Hearings Board, the Rent Review Services Branch of the Ministry of Housing should systematically make available their complete file(s) to the Hearings Board in connection with each appeal.
31. The Rent Review Hearings Board should continue to investigate and introduce appropriate automated office procedures such as advanced word processing and programming capabilities to expedite and make more efficient the processing of appeals.
32. To expedite the resolution of appeals the Rent Review Hearings Board should give consideration to teleconferencing or other electronic means of communication to hear appeals or conduct pre-hearing conferences, particularly from more distant or remote parts of the province. The use of electronic communication to hear pre-hearing conferences or appeals should be employed only with the prior consent of the parties to the appeal.
33. The Minister of Housing should give consideration to expanding the possible scope of the pre-hearing conference, as provided for under s. 104(1) of the Residential Rent Regulation Act, 1986, to include mediation and conciliation. [The Committee notes that s. 102(1) of the Residential Tenancies Act grants the Residential Tenancy Commission a mediatory role in settling certain matters.]

III LIST OF RECOMMENDATIONS

ONTARIO ENVIRONMENTAL ASSESSMENT ADVISORY COMMITTEE

1. The duties of the EA Board should be expanded to include decisions regarding designation, exemption and "bump-up" requests, and any decision by the EA Board would be final, subject to a review by the Minister of the Environment pursuant to section 23 (1) of the EA Act.
2. The EA Board should have the authority to delegate to the EAAC its decision-making powers over designation, exemption and "bump-up" requests, and criteria should be established by the Minister of the Environment to identify clearly those instances when this delegation should occur.
3. The Ministry of the Environment should establish criteria and publish guidelines for proponents on the designation of private sector undertakings; and these criteria should be applied by the EAAC whenever decisions are made.
4. The EAAC should assess its ability to handle a heavier workload and notify the Ministry of the Environment regarding any increased staff or membership requirements.
5. The Committee's recommendations should be forwarded to the EAPIP office for consideration as part of their overall assessment of the EA process.
6. An amendment should be made to the EA Act to specify a maximum time period for the consideration of a designation, exemption or "bump-up" request by the EA Board or the Minister, as well as an additional period of time for those requests referred to the EAAC.
7. The Ministry of the Environment should undertake a public information program designed to educate the public regarding the role of EA in the overall planning process, what EA is designed to accomplish and how this goal is to be achieved.
8. An amendment should be made to the EA Act in section 32 (g) requiring that all appointments be made by an Order in Council.

PSYCHIATRIC REVIEW BOARD

9. The production of an Annual Report to the Minister should be added to the mandate of the Review Board. This Report should collect statistics on, and include discussions of:
 - each of the mandated reviewable issues listed in the Act;
 - whether the number of proceedings initiated remains high in proportion to those heard;
 - what proportion of decisions is made in favour of the patient and of the facility.
10. The Annual Report should include recommendations for improvement of the functioning of the Board, which should in addition maintain its arms-length relationship with the Ministry.
11. The Ministry should review and announce an appropriate administrative process for resolving administrative problems with the operations of the Board.
12. The Provincial Auditor should conduct an efficiency audit of the Board's operations.
13. New Board members should receive a standard briefing on the detailed provisions of the Act, clinical issues they are likely to deal with, Charter issues as they relate to the legislative framework of the Board, and the court decisions which have been made in the area. The Annual Report recommended above should include details of this briefing as well as the educational program for Chairmen.
14. The Ministry should review the composition of the Board in the light of the concerns expressed by members of this Committee, and assess the Board's future terms of reference.
15. The Ministry should assess the appropriateness of the existing discrepancy in remuneration between the professional and lay members of the Board.
16. The Ministry should create a database of Board decisions.

THE ROYAL ONTARIO MUSEUM BOARD OF TRUSTEES

17. The Board should be commended for its efforts to raise funds from non-government sources and recommends that the Board continue to explore new opportunities for revenue generation.
18. The Board should develop a marketing strategy aimed at increasing public awareness of the Museum's evolving role, and increasing public interest in the Museum's new direction in the presentation of exhibitions.
19. The Minister should review the composition of the Board, particularly with respect to the number of trustees elected by the members and staff of the Museum.

STADIUM CORPORATION OF ONTARIO LIMITED

20. Consideration should be given to reducing the proposed number of members of the management board for the partnership between the Corporation and the private consortium.
21. The Corporation should submit annual reports to the Minister.
22. The operations of the Corporation should be reviewed by the Standing Committee on Government Agencies one year from the date on which the partnership between the Corporation and the private consortium members takes effect.
23. A study of the SkyDome project should be conducted to assess the effectiveness of public and private sector joint ventures in carrying out large-scale projects.

RENT REVIEW HEARINGS BOARD

24. In the interest of better serving landlords and tenants in Ontario, the Rent Review Hearings Board, through the Chairman should, on a regular basis, report suggestions or identify concerns to the Minister of Housing respecting legislation, procedures or other matters which could improve the rent review appeal process or rent review in general. Such reports, after being received by the Minister, should be tabled in the Legislature.
25. The Annual Report of the Rent Review Hearings Board should contain a section which identifies significant administrative/legislative or other concerns or issues which may have an impact on the Board's effectiveness or the rent review system. Suggestions may also be made as to how these matters might be resolved.

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29. The Rent Review Hearings Board and Ministry of Housing should, in conjunction with the Legislative Assembly, develop appropriate procedures to ensure that rent review and rent review appeal informational materials and forms are systematically made available to the constituency offices of Members of the Ontario Legislature.
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31. The Rent Review Hearings Board should continue to investigate and introduce appropriate automated office procedures such as advanced word processing and programming capabilities to expedite and make more efficient the processing of appeals.
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33. The Minister of Housing should give consideration to expanding the possible scope of the pre-hearing conference, as provided for under s. 104(1) of the Residential Rent Regulation Act, 1986, to include mediation and conciliation. [The Committee notes that s. 102(1) of the Residential Tenancies Act grants the Residential Tenancy Commission a mediatory role in settling certain matters.]

APPENDIX A

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Terms of Reference

Standing Order 90(f)

Standing Committee on Government Agencies which is empowered to review and report to the House its observations, opinions and recommendations on the operation of all agencies, boards and commissions to which the Lieutenant Governor in Council makes some or all of the appointments, and all corporations to which the Crown in right of Ontario is a majority shareholder, such reviews to be made with a view to reducing possible redundancy and overlapping, improving the accountability of agencies, rationalizing the functions of the agencies, identifying those agencies or parts of agencies which could be subject to sunset provisions, and revising the mandates and roles of agencies;

APPENDIX B

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Schedule of Hearings and Witnesses

Wednesday, 22 March 1989

Re: Ontario French Language
Services Commission

10:00 a.m.
and
2:00 p.m.

From the Ontario French
Language Services Commission:

Gérard Raymond
Chairman

Mary Shenstone
Executive Assistant and
Program Analyst

From the Office of Francophone
Affairs:

Rémy M. Beauregard
Executive Director

Wednesday, 14 June 1989

Re: Rent Review Hearings Board

10:00 a.m.

From the Rent Review Hearings Board

Dr. Ratna Ray
Chairman

David J. Burnside
Senior Legal Counsel

Parduman Chadkha
Vice-Chairman and Registrar

Wednesday, 21 June 1989

Re: Rent Reviews Hearing Board

10:00 a.m.

From the Rent Review Board:

Dr. Ratna Ray
Chairman

David J. Burnside
Senior Legal Counsel

Parduman Chadha
Vice-Chairman and Registrar

Wednesday, 16 August 1989

Re: Ontario Environmental
Assessment Advisory Committee

10:00 a.m.
and
2:00 p.m.

From the Ontario Environmental
Assessment Advisory Committee

Dr. Philip Byer
Chairman

Thursday, 17 August 1989

Re: Psychiatric Review Board

10:00 a.m.

From the Psychiatric Review Board

David C. Smith
Chairman

From the Queen Street Mental
Health Centre

Dianne Macfarlane
Administrator

From the Ministry of Health

J. Blackburn
Assistant Director,
Psychiatric Hospitals Branch

From the Hamilton Psychiatric Hospital

Dr. David Dawson
Chief Psychiatrist

Tuesday, 29 August, 1989

Re: Ontario French Language
Services Commission

10:00 a.m.

From the Ontario French Language
Services Commission

Gérard Raymond
Chairman

2:00 p.m.

Re: Royal Ontario Museum
Board of Trustees

From the Royal Ontario Museum
Board of Trustees

Thomas E. Kierans
Chairman

Dr. T. Cuyler Young
Director

Michael Shoreman
Assistant Director, Financial
and Administration

Wednesday, 30 August 1989

Re: Stadium Corporation
of Ontario Limited

From the Stadium Corporation
of Ontario Limited

Charles J. Magwood
President and Chief
Executive Officer

2:00 p.m.

Re: Psychiatric Review Board

From the Psychiatric
Patient Advocate Office

Mary Beth Valentine
Provincial Co-ordinator

APPENDIX C

Agencies, Boards and Commissions reviewed to date

1st Review: (9 November 1978)	Waste Management Advisory Board Pesticides Advisory Committee Ontario Food Council Agricultural Research Institute Alcoholism and Drug Addiction Research Foundation Ontario Institute for Studies In Education Education Relations Commission Farm Machinery Board Land Compensation Board of Ontario Milk Commission of Ontario Cream Producers' Marketing Board St. Lawrence Parks Commission Ontario Council for the Arts Ontario Heritage Foundation
2nd Review: (3 December 1979)	Ontario Research Foundation Ontario Telephone Service Commission Ontario Housing Corporation Ontario Food Terminal Board Ontario Council of Health Ontario Municipal Board
3rd Review: (2 December 1980)	Ontario Educational Communications Authority Ontario Lottery Corporation Board of Ophthalmic Dispensers Ontario Labour Relations Board Ontario Northland Transportation Commission Liquor Control Board of Ontario
4th Review: (19 November 1981)	Ontario Racing Commission Ontario Hockey Development Committee Farm Pollution Advisory Committee Ontario Place Corporation
5th Review: (11 May 1982)	Ontario Board of Censors Ontario Energy Board Ontario Police Commission Toronto Area Transit Operating Authority
6th Review: (7 December 1982)	Art Gallery of Ontario Civil Service Commission Commission on Election Contributions and Expenses Ontario Mortgage Corporation Wolf Damage Assessment Board

7th Review:
(15 December 1983)

Criminal Injuries Compensation Board
The Law Society of Upper Canada
Ontario Cancer Treatment and Research Foundation
Ontario Manpower Commission
Ontario Status of Women Council

8th Review:
(21 June 1984)

Alcohol and Drug Addiction Research Foundation
Board of Funeral Services
Board of Parole
Board of Visitors of Homewood Sanitarium, Guelph
Crop Insurance Commission of Ontario
Game and Fish Hearing Board
IDEA Corporation
Nursing Homes Review Board
Social Assistance Review Board

9th Review:
(19 November 1984)

Animal Care Review Board
Children's Services Review Board
Niagara Parks Commission
Niagara Falls Bridge Commission
Ontario International Corporation
Ontario Junior Farmer Establishment Loan Corporation

10th Review:
(25 September 1985)

Assessment Review Board
Fire Code Commission
Geoscience Research Review Commission
Health Disciplines Board
Languages of Instruction Commission of Ontario
Licence Suspension Review Board
Liquor Licence Board of Ontario
Ontario Drainage Tribunal
Selection Panel (Ontario Graduate Scholarships)
Travel Industry Compensation Fund Board of Trustees

11th Review:
(7 January 1986)

Canadian National Exhibition Association
James Bay Educational Centre
Board of Management Centre
Metropolitan Toronto Convention Centre Corporation
Board of Directors
Minaki Lodge Resort Limited and Minaki Development
Company Limited
Old Fort William Advisory Committee
Ontario Economic Council
Ontario Human Rights Commission
Ontario Stock Yards Board
Toronto Stock Exchange Board of Directors

12th Review:
(12 February 1987)

Ontario Advisory Council on Multiculturalism
and Citizenship
Ontario Arts Council
Ontario Development Corporations
Ontario Land Corporations
Ontario Lottery Corporation

13th Review:
(24 July 1987)

Agricultural Council of Ontario
Liquor Control Board of Ontario
Ontario Northland Transportation Commission
Pesticides Advisory Committee

14th Review:
(28 June 1988)

Civil Service Commission
Pension Commission of Ontario
Ontario Food Terminal Board
Ontario Securities Commission

15th Review:
(February 1989)

Advisory Council on Occupational Health and
Occupational Safety
Ontario Waste Management Corporation
St. Lawrence Parks Commission

16th Review:
(December 1989)

Ontario Environmental Assessment Advisory
Committee
Psychiatric Review Board
Royal Ontario Museum Board of Trustees
Stadium Corporation of Ontario Limited
Ontario French Language Services Commission
Rent Review Hearings Board

APPENDIX D

**MINORITY OPINION TO THE ONTARIO FRENCH
LANGUAGE SERVICES COMMISSION**

MINORITY OPINION AND RECOMMENDATIONS OF THE PROGRESSIVE
CONSERVATIVE PARTY MEMBERS OF THE STANDING COMMITTEE ON
GOVERNMENT AGENCIES REPORT ON THE FRENCH LANGUAGE SERVICES
COMMISSION.

It is the opinion of the Progressive Conservative Party members of the Standing Committee on Government Agencies that the Committee's recommendations related to the French Language Services Commission do not adequately address the problems of fairness and consistency in implementation of the French Language Services Act.

During the course of the committee meetings with officials of the French Language Services Commission, Progressive Conservative members of the committee expressed concern over both the Commission's and the government's failure to address growing public misgivings related to the implementation of Bill 8, the French Language Services Act.

In particular, Progressive Conservative members pointed to a number of concerns, including the perception in many communities of lost job opportunities for unilingual anglophones and the significant and growing cost of providing services that appear to many to meet no real need.

The Progressive Conservative Party has proven by its actions that it consistently supports the right of Franco-Ontarians to receive government services in either English or French, where need is demonstrated, without the creation of social divisions within the province.

Progressive Conservative governments have been responsible for many of the services now available to Francophones. These include the translation of Ontario's statutes, the creation of the Council of Franco-Ontarian Affairs as a government advisory body, the establishment of the Office of the Government Coordinator of French Language Services, the use of French in the Legislature and the courts, the opening of bilingual civil service positions and the establishment of the right of every Francophone child to have an education in French.

It is our concern, as members of the Standing Committee on Government Agencies, that there is an increasingly widespread perception that the implementation of the French Language Services Act is prejudicial. Unless action is taken on the part of the government to clear up the present misperceptions about the Act, the usefulness of such legislation will be obscured by heightened tensions between Franco- and Anglo-Ontarians.

It has been, and continues to be, the consistent policy of the PC Party that a Select Committee of the Legislature should be formed in order to review the implementation of the French Language Services Act to ensure that the designation of

services to be provided in French, the criteria for designating bilingual positions and the policy towards bilingualism in government offices is consistent, realistic, effective and is not prejudicial to current or future employees.

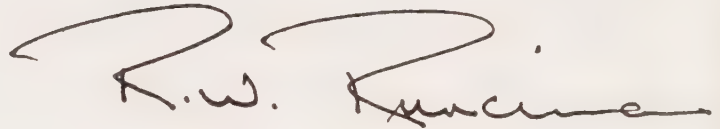
As part of the proceedings of such a Select Committee, all interested citizen groups should be allowed to appear and comment on the implementation of the French Language Services Act. After such hearings the Committee could then determine areas in which the implementation of the Act may be improved.

The Liberal government's failure to provide such a public forum to explain fully the implications of Bill 8 and to allow public input on this significant issue is jeopardizing the groundwork laid by previous Progressive Conservative governments in developing a harmonious relationship between Francophone and Anglophone Ontarians.

Bill 8 has wide-ranging implications for the province and all Ontario residents should be afforded the opportunity of commenting on this significant legislation and the way in which it is being interpreted and implemented by the Liberal government.

Progressive Conservative members of the committee believe the time is long overdue for the legislature to provide a forum for public input on Bill 8 to insure that the legislation is meeting the needs and serving the desires of Ontarians.

Therefore, we recommend that the Legislature establish a Select Committee to review the implementation of the French Language Services Act.

A handwritten signature in dark ink, appearing to read "R.W. Runciman". The signature is fluid and cursive, with a large initial "R" and a long, sweeping underline.

Robert Runciman, MPP

A handwritten signature in dark ink, appearing to read "Margaret Marland". The signature is highly stylized and cursive, with a large initial "M" and a long, sweeping underline.

Margaret Marland, MPP

**AVIS DE LA MINORITÉ SUR
LA COMMISSION DES SERVICES EN FRANÇAIS DE L'ONTARIO**

AVIS ET RECOMMANDATIONS DES MEMBRES DU COMITÉ PERMANENT DES ORGANISMES GOUVERNEMENTAUX APPARTENANT AU PARTI PROGRESSISTE-CONSERVATEUR RELATIVEMENT À LA COMMISSION DES SERVICES EN FRANÇAIS DE L'ONTARIO.

Selon les membres du Comité permanent des organismes gouvernementaux appartenant au Parti progressiste-conservateur, les recommandations du Comité relatives à la Commission des services en français de l'Ontario ne répondent pas suffisamment bien aux questions soulevées par la mise en oeuvre de la Loi de 1986 sur les services en français sur le plan de l'équité et de l'uniformité.

Durant les réunions que le Comité a tenues avec les représentants de la Commission des services en français, les membres progressistes-conservateurs du Comité ont exprimé leur inquiétude devant l'incapacité de la Commission et du gouvernement de tenir compte des craintes grandissantes du public à l'égard de la mise en oeuvre du projet de loi 8, la Loi de 1986 sur les services en français.

Plus précisément, les membres progressistes-conservateurs ont évoqué plusieurs sujets de préoccupation, notamment l'impression, ressentie dans de nombreuses collectivités, que les débouchés vont diminuer pour les anglophones unilingues et le coût appréciable et grandissant de la prestation de services qui ne semblent pas, pour beaucoup, s'adresser à des besoins réels.

Le Parti progressiste-conservateur a prouvé concrètement qu'il appuie constamment les droits des Franco-Ontariens à recevoir des services de la province en anglais ou en français, là où le besoin s'en fait sentir, sans créer de divisions sociales dans la province.

Les gouvernements progressistes-conservateurs sont à l'origine de nombreux services actuellement offerts aux francophones, notamment la traduction des lois de l'Ontario, la constitution du Conseil des affaires franco-ontariennes, la création du Bureau du coordonnateur provincial des services en français, l'emploi du français à l'Assemblée législative et dans les tribunaux, la création de postes bilingues dans la fonction publique et la reconnaissance du droit de chaque enfant francophone à faire ses études en français.

À titre de membres du Comité permanent des organismes gouvernementaux, nous craignons que le public ait de plus en plus l'impression que la mise en oeuvre de la Loi sur les services en français est préjudiciable. Si le gouvernement ne prend pas les mesures nécessaires pour dissiper le malaise actuel créé par la Loi, l'utilité d'une telle loi sera obscurcie par la tension croissante entre les Ontariens francophones et anglophones.

Le Parti progressiste-conservateur a toujours maintenu qu'il fallait former un comité spécial de l'Assemblée législative pour examiner la mise en oeuvre de la Loi sur les services en français, de manière à s'assurer que la désignation des services à fournir en français, les critères du choix des postes bilingues et la politique officielle en matière de bilinguisme dans les bureaux de l'Administration soient uniformes, réalistes, efficaces et qu'ils ne portent pas préjudice aux employés actuels et futurs.

Le fonctionnement d'un tel comité permettrait à tous les groupes de citoyens intéressés d'exprimer leurs vues sur la mise en oeuvre de la Loi sur les services en français. À la suite de ses audiences, le comité pourrait cerner les aspects de la mise en oeuvre de la Loi qui valent d'être améliorés.

L'échec du gouvernement libéral à fournir une telle tribune publique pour expliquer à fond la portée du projet de loi 8 et pour permettre au public de donner son opinion sur cette question importante met en péril les fondations favorables aux rapports harmonieux entre les francophones et les anglophones de l'Ontario posées par les gouvernements progressistes-conservateurs précédents.

Le projet de loi 8 a des répercussions étendues pour la province; tous les résidents de l'Ontario doivent donc avoir l'occasion de commenter cette importante loi et la façon dont elle est interprétée et mise en oeuvre par le gouvernement libéral.

Les membres progressistes-conservateurs du Comité estiment qu'il est grand temps que l'Assemblée législative fournisse au public une tribune sur le projet de loi 8, pour faire en sorte que cette loi réponde aux besoins des Ontariens et serve leurs aspirations.

Par conséquent, nous recommandons que l'Assemblée législative mette sur pied un comité spécial pour examiner la mise en oeuvre de la Loi sur les services en français.

Robert Runciman, député

Margaret Marland, députée

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Standing Committee on Government Agencies

Report on Agencies, Boards and Commissions (No. 17)



2nd Session, 34th Parliament
39 Elizabeth II

STANDING COMMITTEE ON
GOVERNMENT AGENCIES



COMITÉ PERMANENT DES
ORGANISMES GOUVERNEMENTAUX

LEGISLATIVE ASSEMBLY
ASSEMBLÉE LÉGISLATIVE

TORONTO, ONTARIO
M7A 1A2

The Honourable Hugh Edighoffer, M.P.P.,
Speaker of the Legislative Assembly

Sir,

Your Standing Committee on Government Agencies has the honour to present its 17th Report and commends it to the House.

A handwritten signature in dark ink, reading "Norm. Sterling".

Norman Sterling, M.P.P.
Chair

Queen's Park
July 1990

STANDING COMMITTEE ON GOVERNMENT AGENCIES

NORMAN STERLING
Chairman

MICHAEL BREAUGH

ALLAN McLEAN

MICHAEL FARNAN

BRAD NIXON

ED FULTON

BRUCE OWEN

TARAS KOZYRA

BOB RUNCIMAN

TONY LUPUSELLA

LARRY SOUTH

HAROLD BROWN
Clerk of the Committee

DAVID POND
Research Officer

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THE COLLEGE RELATIONS COMMISSION

The rapid economic growth and increased rate of technological change in Ontario in the late 1950s and early 1960s resulted in a shortage of educated and skilled human resources. The provincial government responded with the creation in 1965 of the Colleges of Applied Arts and Technology. This college system was to be occupationally oriented, sensitive to the needs of the local community, and easily accessible to all who wanted to upgrade their education and training.

Ontario's network of Colleges of Applied Arts and Technology currently consists of 23 separate colleges, with 90 campuses, in more than 55 cities and towns. The colleges have an enrolment of approximately 110,000 full-time and 715,000 part-time students. The colleges employ over 8,000 teachers and 6,500 support staff. The system is funded primarily by operating grants from the Ministry of Colleges and Universities (approximately \$615 million in 1987-88) and the Ministry of Skills Development (\$145 million), students' fees (\$112 million), and revenues from programs purchased by the federal government (\$149 million).

When the colleges were created in 1965, it was widely assumed that collective bargaining would take place under the Ontario Labour Relations Act (R.S.O. 1980, c. 228), the general labour statute in the province. However, the Ontario Labour Relations Board ruled in 1967 that it did not have jurisdiction over the colleges because they were Crown agencies. The Council of Regents for Colleges of Applied Arts and Technology, the governing body of the colleges, then took over the responsibility for province-wide negotiations with the bargaining representative of the colleges' academic and support staff, which since 1975 has been the Ontario Public Service Employees Union (OPSEU).

The College Relations Commission was established in 1975 under the Colleges Collective Bargaining Act (R.S.O. 1980, c. 74) to oversee collective bargaining between the Ontario Council of Regents and OPSEU. For the first time this Act gave the academic and support staffs of the colleges the right to strike, and the Council of Regents the right to lock out.

The right to strike or lock-out was extended to the college system at the same time it was permitted in the public education system under the School Boards and Teachers Collective Negotiations Act (R.S.O. 1980, c. 464). The Legislative Assembly decided that publicly funded education, in the schools and the colleges, was not an essential service and therefore free collective bargaining was desirable. This was in sharp contrast to the publicly funded hospital sector and the broader public service itself which were not allowed to strike or lock out.

The right to strike and lock out under the Colleges Collective Bargaining Act can only be exercised after a series of steps have taken place. For example, a strike or lock out is not legal until:

- (a) a fact-finder has met with the parties and his or her report has been made public;
- (b) a fifteen-day cooling-off period takes place after the fact-finder's report is submitted to the parties;
- (c) after the members of the employee organization have voted--by secret ballot in a supervised vote--on the last offer of the Council of Regents; and
- (d) after the members of the employee organization have voted--by secret ballot in a supervised vote--to take strike action.

At any time during the process, the parties may choose voluntary binding arbitration or final-offer selection as an alternate means of dispute resolution.

Under the Act one of the parties to a dispute can ask the Commission to appoint the fact-finder (s. 8). The Commission is responsible for supervising and conducting all votes by secret ballot (s. 56). If the parties choose voluntary binding arbitration or final offer selection, they can ask the Commission to appoint the arbitrator or the selector (ss. 22-23, 32). The Commission is responsible for training persons who may act as mediators, fact-finders, arbitrators or selectors (s. 56).

The Commission also offers a Grievance Mediation program as part of its continuing effort to fulfill its mandate under the Act. Grievance mediation is a process designed to resolve grievances between the parties before the point of arbitration is reached.

If both parties agree, the Commission will appoint a neutral third party when the grievance procedure has been exhausted and before arbitration. The third party will spend one day with the parties, during which time he or she will try, in an informal and confidential manner, to settle the grievance. If the issue(s) cannot be settled, the parties maintain their right to proceed to arbitration. If the parties do proceed to arbitration, they may request the Commission to appoint the arbitrator or the chair of the arbitration board (s. 46).

Other responsibilities of the Commission under the Act (s. 56) include:

- to compile statistical information on the supply, distribution, professional activities and salaries of employees;
- to determine, at the request of either party or in the exercise of its discretion, whether or not either of the two parties is or was negotiating in good faith and making every reasonable effort to make or renew an agreement; and
- to advise the Lieutenant Governor in Council when, in the opinion of the Commission, the continuance of a strike, lockout, or closing of a college or colleges will place in jeopardy the successful completion of courses of study by the students affected by the strike, lockout, or closing of the college or colleges.

Structure and Organization

The College Relations Commission is composed of five members appointed by the Lieutenant Governor in Council. The term of appointment may range from one to three years, and each member of the Commission is eligible for reappointment upon the expiration of the term. The five members of the Commission also make up the Education Relations Commission, whose mandate under the School Boards and Teachers Collective Negotiations Act (R.S.O. 1980, c. 464) is to oversee collective bargaining between school boards and teachers.

The following table lists the current membership of the Board and their terms of appointment.

	<u>Location</u>	<u>Orig. Appt.</u>	<u>Exp. Date</u>
SWINTON, Prof. Katherine E. CHAIRMAN	Toronto	Nov. 1/87	Oct. 31/90
HAYES, David Allan VICE-CHAIRMAN	St. Catharines	May 11/88	May 10/91
McNEIL, William John	Agincourt	Apr. 30/87	Mar. 5/92
ZEILER, John Irwin	Willowdale	Mar. 6/86	Mar. 5/92
COUSINEAU, Treva Legault	Sudbury	May 1/88	May 10/91

NOTE: Same membership as Education Relations Commission (Ministry of Education)

While the Commission has the statutory authority to hire its own employees, by agreement with the Education Relations Commission and the Ministry of Education it makes use of the personnel employed by the Education Relations Commission, and reimburses its sister commission for their services together with all other legitimate expenses paid out on behalf of the Commission.

While all appointments and major decisions are made by the Commission, the day to day operations of the Commission are managed by a Chief Executive Officer. The operations of the Commission are divided into two major functions, Field Services and Information Services. Field Services monitors negotiation activity at the local level, while Information Services provides data to all parties in negotiations. The internal administrative work of the Commission is handled through an Administrative Services group. The following table provides a breakdown of the staff of the Education Relations Commission who in fact work for the College Relations Commission.

			<u>1988-89</u>	<u>1987-88</u>	<u>1986-87</u>
CEO & Members	(a)	Government appointees	6	6	6
None	(b)	elected officers	-	-	-
None	(c)	other officers	-	-	-
Support staff	(d)	office staff	7	7	7
Prof. staff	(e)	professional support staff:			
	(i)	full-time	9	9	9
	(ii)	consultants	0	0	0

In addition to their permanent staff, the Commissions utilize a group of approximately seventy-five persons who are employed on a free-lance per diem basis as mediators and fact-finders.

Negotiations under the Colleges Collective Bargaining Act

Support Staff

The support staff has been involved in ten rounds of negotiations under the Act. Each round has had fact-finding, and eight rounds have had post-fact-finding mediation. There have been five last offer votes, and three strike votes. There has been one strike, in 1979.

Academic Staff

The academic staff have been involved in ten rounds of negotiations under the Act. Each round has had fact-finding, and nine rounds have had post-fact-finding mediation. There have been eight last offer votes, and four strike votes. The 1982-84 negotiations were cut short by inflation restraint legislation, and the 1984-85 negotiations resulted in back to work legislation. In 1984-85, the year of the first strike, the College Relations Commission issued a jeopardy advisement to the Minister to the effect that the strike was about to endanger the successful completion of the academic year. The most recent round of negotiations, in the fall of 1989, included a strike. There have been four complaints regarding voting procedures, all of which were dismissed after investigation. There have been two bad faith bargaining complaints, both of which were withdrawn before hearings commenced.

Finances

The following table shows the expenditures of the Commission in recent years.

	<u>1989-90 Estimates</u>	<u>1988-89</u>	<u>1987-88</u>	<u>1986-87</u>
(a) Transportation and Communications	\$ 10,000	\$ 1,286	\$ 8,444	\$ 1,273
(b) Services	\$ 45,600	\$ 32,975	\$ 49,492	\$ 32,386
(c) Supplies and Equipment	\$ 2,000	\$ 2,833	\$ 18,571	\$ 24,906

The salaries and benefits of the employees of the Commission are paid for by the Education Relations Commission. In 1988-89 the expenditure on salaries and benefits is estimated to be \$738,041. The Chairperson of the College Relations and Education Relations Commissions receives \$25,000 per annum. The Ministry of Colleges and Universities reimburses the Ministry of Education for the portion applicable to the duties performed by the Chair for the College Relations Commission. The Vice-Chairperson receives a \$195 per diem plus expenses for every working day, while the other members of the Commission receive a \$165 per diem plus expenses. The Minister of Colleges and Universities reimburses the Ministry of Education for one half of the costs incurred on each such day. The total expenditure of the Commission varies from year to year depending on whether collective bargaining is taking place.

Accountability and Control

Under the Management Board of Cabinet Directives (formerly known as the Manual of Administration) the College Relations Commission is classified as a Schedule 1 Regulatory Agency. (It is however administratively independent and does not appoint staff under the Public Service Act (R.S.O. 1980, c. 418), which Schedule 1 agencies normally do). The Commission is required to have a Memorandum of Understanding with the Ministry of Colleges and Universities. The administrative and accounting procedures used by the Commission are in accord with the financial guidelines and budgetary controls established by the Ministry. The annual budget of the Commission is developed in consultation with the Ministry and is subject to the approval of the Legislative Assembly as a vote in the estimates of the Ministry of Colleges and Universities. Since the Commission is staffed by the Education Relations Commission it is subject regarding its administration to the terms of the Memorandum of Understanding between the Ministry of Education and the Education Relations Commission.

The College Relations Commission has not been the subject of a sunset review and has not been investigated by the Provincial Auditor or any legislative committee for the last five years. However, collective bargaining in education has been studied by a number of commissions and bodies in recent years. The most important of these as far as the College Relations Commission is concerned is the Colleges Collective Bargaining Commission, which released its report in January, 1988.

The Report of the Colleges Collective Bargaining Commission (the Gandz Report)

The Colleges Collective Bargaining Commission was established in January, 1987 to examine the legislation governing collective bargaining in the province's Colleges of Applied Arts and Technology. The Commissioner was Dr. Jeffrey Gandz, a member of the faculty of the School of Business at the University of Western Ontario. He submitted his report to the Minister of Colleges and Universities in January, 1988.

The Report is the first major review of the college collective bargaining legislation and makes substantive recommendations covering every aspect of the system. Copies of the Report have been distributed to OPSEU, college boards of governors, the Council of Regents and other members of the college community. The Ministry will not proceed to implement any of the Report's recommendations until it has received comments from the college community.

The Report of the Gandz Commission offers a wholesale critique of collective bargaining in community colleges, and recommends significant changes to every facet of the system, including the roles of the government and Council of Regents, the definition of the bargaining units, the deadlines imposed on the parties under the Colleges Collective Bargaining Act, and the Colleges Relations Commission. In particular, the Gandz Commission argued that the Council of Regents and OPSEU have demonstrated a chronic inability to conclude collective agreements in the academic bargaining unit within a reasonable period of time without excessive reliance on third party intervention, last offer received and strike votes. The most recent strike by the academic bargaining unit, in October and November of last year, would seem to confirm Dr. Gandz's analysis.

The Report criticizes several aspects of the College Relations Commission's operations. Dr. Gandz found that currently the Commission was not a major player in the collective bargaining system in the colleges the way that the Education Relations Commission was in the school system. The Commission did not have the resources adequately to discharge its responsibility under the Colleges Collective Bargaining Act to collect data and provide statistical analysis of the issues to the parties, which Dr. Gandz felt was sorely needed. He reported that the parties questioned the professionalism of the Commission in matters relating to the conduct of last offer received and strike votes.

Dr. Gandz made a number of recommendations designed to strengthen the Commission and provide it with a refreshed and invigorated mandate. The Commission should be provided with sufficient resources to enable it to provide neutral and expert data to the participants in the bargaining process. It should improve its procedures for conducting supervised votes. The mandate of the Commission should be expanded to include all judicial and quasi-judicial functions relating to collective bargaining in the colleges. Dr. Gandz felt that despite the flaws he had identified in its current operations, the Commission had the potential to become a more professional and credible participant in the collective bargaining process.

The Strategic Plan 1989

The College Relations Commission and the Education Relations Commission have released a joint Strategic Plan 1989. This Plan identifies problems in the operation of both Commissions which need to be worked on by Commission staff over the next two or three years. Many aspects of the operation of the College Relations Commission discussed in this Plan are also identified as problems in the Gandz Report.

Fact-finding

Fact-finding is a crucial aspect of the College Relations Commission's operation and has been invoked in every round of negotiations between the Council of Regents and both the academic and staff bargaining units.

Fact-finding is a form of non-binding dispute resolution whereby a disinterested, neutral third party inquires into the bargaining parties' negotiations and writes a report on matters that have been agreed upon, and those that remain in dispute. The fact-finder may make non-binding recommendations on disputed matters which may then serve as the basis for a settlement.

Gandz identifies three major purposes which fact-finding under the Colleges Collective Bargaining Act was intended to serve:

- the parties may benefit from a experienced professional helping them to structure the issues in bargaining and may bring relevant data to bear on those issues in dispute;
- the threat of the fact-finder publicly revealing the extreme negotiating positions taken by either or both of the parties could act as an incentive for them to take reasonable approaches to the negotiations; and
- the public had a right to know what was going on in public sector disputes and the fact-finder could be the public's "window" on the negotiations.

Gandz offers ample evidence that everybody involved in the collective bargaining process - the parties, the fact-finders themselves, and external observers - have questioned the effectiveness of fact-finding under the Act. The support staff bargaining unit apparently regards fact-finding as little more than a legislative hurdle which is not expected to produce any benefits. The fact-finders in the academic staff negotiations have commented that they tend to be involved at early stages of the negotiations rather than at the stage when an impasse has been reached; as a result they have often been documenting the parties' initial positions only, rather than their final ones. Gandz argues that when fact-finding takes place at early stages of negotiations the public is not informed of the real issues in dispute and the realistic probability of strike action. He adds that it is quite clear that the threat of exposure to public scrutiny has not deterred the parties from sticking to their positions.

Other Issues

In the Strategic Plan 1989 the College Relations Commission identified the following as current issues which needed to be addressed:

- an increased turnover and withdrawal from active service by persons who have acted as fact-finders and mediators;
- the necessity of strengthening the fact-finding process in order to assist parties in negotiations more effectively; and
- the need to increase the efficiency of the fact-finding appointment process.

According to the Plan the Commission intends on developing a group of 40 well-trained, experienced fact-finders and mediators, as well as guidelines for the process of making fact-finding appointments.

Recommendations

The Committee was impressed with the critique of the colleges collective bargaining system and the College Relations Commission in particular outlined in the Report of the Gandz Commission. In his testimony before the Committee Dr. Gandz indicated that he felt his analysis is still valid two years after the release of his Report.

The Committee agrees with the general thrust of the Gandz Report. Clearly the colleges collective bargaining system is not working properly. The College Relations Commission is just one part of this larger problem.

The Committee therefore recommends that:

- 1. The Ministry of Colleges and Universities should respond to the Gandz Commission as soon as possible.**

The Committee endorsed Dr. Gandz's general analysis of why the parties in the system lacked incentives to conclude bargaining expeditiously. Until it decides upon its official response to the Gandz Report, the Ministry should ban strikes during the school year in the colleges, and impose binding arbitration on the parties if they cannot settle by September 1.

During a strike the Minister does not ordinarily intervene in the collective bargaining process until there has been a jeopardy advisement by the College Relations Commission. During the 1984 strike the Commission made a jeopardy advisement on the 17th academic day of the strike. During the 1989 strike, however, the Commissioner did not make such an advisement until the 20th school day.

Many Members queried the Commission about the criteria it used when deciding whether to make a jeopardy advisement to the minister. Members were surprised to learn that the Commission made such decisions (in 1984 and 1989) without any information at all about the effect of a strike on the drop-out rate of students. When asked by a Member how many students would have to lose their year before it would make a jeopardy advisement, the Commission had no answer.

The Committee therefore recommends that:

2. **The College Relations Commission should develop written criteria to be used when making a jeopardy advisement. This criteria should direct the Commission to take into consideration all available information on the effect of past strikes on the drop-out rate among students.**

The Commission accepted Dr. Gandz's criticism of its information gathering capability. According to the Commission collecting and analyzing data about teaching assignments and workload was expensive. The Commission did not collect the information which was available in the colleges because the parties had indicated they were not interested in it.

The Committee therefore recommends that:

3. **The College Relations Commission should make every effort to collect up-to-date information on the issues at stake, particularly regarding teaching assignments and workload, and make this information available to the parties. The Commission should assign one employee to this task.**

The Committee noted the evidence that the centralized bargaining system did not adequately take into account the variety and complexity of the issues facing the individual community colleges. Community colleges were established to reflect the diverse needs of local communities. The Committee feels that during the Ministry's review of the Gandz Report, serious consideration should be given to permitting local bargaining.

The Committee therefore recommends that:

4. **While collective bargaining should continue to take place at the provincial level, local bargaining should be strongly encouraged within this provincial framework.**

THE ONTARIO CUSTODY REVIEW BOARD

The Custody Review Board was established under the authority of the Child and Family Services Act (S.O. 1984, c. 55) and the Ministry of Correctional Services Act (R.S.O. 1980, c. 275).

Under the federal Young Offenders Act (S.C. 1980, s. 24.2(9)), a Youth Court may order a young offender committed to a place of secure custody, open custody, or a residential setting under a probation order. Provincial directors, appointed by the province, make decisions concerning specific placements and the granting of temporary releases to the community. Upon applications from young persons, the Custody Review Board conducts reviews of provincial director's decisions. The Board makes its recommendations to the provincial directors who may or may not act on them. There is no appeal from the Custody Review Board's recommendations by the applicants. The Board is established as an independent body and its recommendations are not subject to review by the Ministers or officials of the Ministry of Community and Social Services or the Ministry of Correctional Services.

It should be noted that the Custody Review Board served two transitory roles in its infancy. Under regulations passed pursuant to the Ministry of Correctional Services Act, the Board performed duties formerly the responsibility of the Training Schools Advisory Board regarding children who were wards of the Crown under the Training Schools Act (R.S.O. 1980, c. 508, repealed by S.O. 1984, c. 19, s. 12(1)) until the wardships expired or were terminated. The last ward left the system in April, 1988. The Custody Review Board was also given the responsibility of serving as the Secure Treatment Admissions Committee. Children accepted for a long term placement at a Secure Treatment Facility were required to go to a hearing before this Committee prior to his or her admission or extension of admission. This function was transferred to the court system in April, 1989 under an amendment to the Child and Family Services Act.

Structure and Organization of the Board

The Custody Review Board was established by the Ministers of Community and Social Services and Correctional Services as a joint board with joint appointments. Appointments are by Order-in-Council.

The following are the current Board members:

Lorraine Watson, Chairperson

Appointed by MCS

Term = April 21, 1988 - April 20, 1991

Chair = August 1, 1989

Keith Quigg, Member

Appointed by MCSS

Term = October 24, 1988 - October 23, 1990

Patricia Yaternick, Member

Appointed by MCSS

Term = October 24, 1988 - October 23, 1990

Clive Banton, Member

Appointed by MCSS

Term = October 24, 1988 - October 23, 1990

A Board member's term of office is six months, one year, two years or three years, renewable up to a further three years at the discretion of the government. The Lieutenant Governor in Council appoints a member of the Board as chairman and may appoint one or more other members as vice-chairman. The chairman assigns Board members to the various hearings and reviews. The Board can have up to fifteen members. One member of the Board constitutes a quorum.

The Custody Review Board employed one full-time staff person in 1986-87, two in 1987-88, and two in 1988-89. The two full-time employees are the Board's Coordinator and Secretary. These are Ministry of Community and Social Services employees who also provide support services to a number of other boards and commissions reporting to this ministry. Their work for Custody Review Board amounts to approximately one-half or less of their work time.

How the Custody Review Board Operates

The Custody Review Board is empowered to conduct reviews as set out in section 93 of the Child and Family Services Act, 1984. Young persons may apply to the Board for a review of:

- (a) a provincial director's decision to hold the young person in or transfer the young person to a maximum security place of custody;
- (b) the particular place where the young person is held or to which the young person has been transferred;

- (c) a provincial director's refusal to authorize the young person's temporary release under section 35 of the Young Offenders Act; or
- (d) the young person's transfer from a place of open custody to a place of secure custody under subsection 24(9) of the Young Offenders Act.

In addition to these duties the Board will review the placement of probationers who are ordered by the Youth Court to reside at a place specified by a provincial director where the place specified is designated as a place of open custody.

The young person must apply to the Board within 30 days of the decision, placement or transfer.

The Board must conduct a review with respect to an application and may do so by holding a hearing. The Board must advise the young person within 10 days of receiving the application whether or not it intends to hold a hearing. The review shall be completed and a determination made within 30 days of receipt of the young person's application unless the Board holds a hearing and the young person and his provincial director consent to a longer period.

After conducting a hearing or review the Board may:

- (a) recommend to the Provincial Director:
 - i) that the young person be transferred to a medium security place of custody;
 - ii) where the Board is of the opinion that the place where the young person is held or to which he/she has been transferred is not appropriate to meet the young person's needs, that the young person be transferred to another place;
 - iii) that the young person's temporary release be authorized under section 35 of the Young Offenders Act;
 - iv) where the young person has been transferred under subsection 24.2(9) of the Young Offenders Act, that the young person be returned to a place of open custody; or
- b) confirm the decision, placement or transfer.

Wherever possible, the Board will travel to a location convenient to the parties involved. In such cases, the Board may review file material upon its arrival at this

location. In other cases, depending on the circumstances, the Board may request that the provincial director provide written information from the young person's file.

In the event of a hearing being held, the Board may either recess for a short while and render its determinations shortly thereafter, or adjourn and notify the young person and provincial director at a later date, but still within the 30 days time frame unless there has been a consent to a delay. Ultimately the Board will make recommendations in writing which will be distributed to the young person, provincial director and advocate, parent(s), or guardian as applicable.

There were 28 applications to the Board in 1989.

Finances

The total expenses of the Custody Review Board over the last three years are as follows:

1988-89	1987-88	1986-87
\$101,676	\$73,074.43	\$37,378.67

Staff salary expenditures are charged to the Board though staff time is shared with other agencies.

The following table provides a breakdown of the Custody Review Board's expenses:

	1988-89	1987-88	1986-87
Salaries & Benefits	\$57,241	\$53,531	\$16,664
Transportation and Communications	\$ 7,588	\$ 1,520	\$ 4,234
Services	\$19,601	\$ 4,651	\$12,185
Supplies & Equipment	\$17,246	\$13,359	\$ 4,693

The current per diem allowance is \$150.00 for the Chair, \$125.00 for the Vice-Chair and \$100.00 for other Board members, plus reasonable and necessary travelling and living expenses.

Recommendations

The Committee was impressed with the sincerity of the witnesses representing the Custody Review Board. However, the Committee feels that the utility of the Board is questionable. There were only 28 applications to the Board in 1989. Moreover, the Board has no power over provincial directors.

The Committee therefore recommends that:

5. **The Custody Review Board should be abolished.**

THE ONTARIO BOARD OF PAROLE

Under the federal Parole Act (R.S.C. 1986, c. P-2) and the provincial Ministry of Correctional Services Act (R.S.O. 1980, c. 275) provincial offenders are defined as those who are sentenced to prison terms of up to two years less one day. In 1910 an Ontario Parole Commission was created by Order-in-Council to advise the federal Minister of Justice about releasing provincial offenders from the indefinite portion of their sentences. Under the federal Prisons and Reformatories Act (S.C. 1913, c. 39) an indefinite sentence was a second term of two years less a day which could be added by a judge to the initial term. No remission could be earned on the indefinite portion of a sentence; release was solely at the discretion of the provincial parole board. In 1917 the Ontario Board of Parole was formally appointed with statutory powers granted under the Prisons and Reformatories Act. In 1959 the federal Parole Act was passed, establishing the National Parole Board and giving it authority over the definite portion of provincial sentences. The Ontario Board of Parole continued to deal with the indefinite portion of sentences, but now received the authority under this Act to release offenders as distinct from merely recommending release. Indefinite sentences were repealed by the Criminal Law Amendment Act (S.C. 1976, c. 53).

It was not until 1978 that an amendment to the Parole Act gave the Ontario Board of Parole full authority for parole decisions regarding all inmates held in correctional institutions under provincial jurisdiction. The Board currently operates under the federal Parole Act and the provincial Ministry of Correctional Services Act (R.S.O. 1980, c. 275). The Ontario Board of Parole is the oldest parole board in Canada and the largest provincial parole board.

The Ontario Board of Parole operates within legislative criteria outlined in the federal Parole Act which specify that the Board may grant parole if it considers that:

- the inmate has derived maximum benefit from imprisonment;
- the reform and rehabilitation of the inmate will be aided by parole; and
- the release of the inmate on parole would not constitute an undue risk to society.

Offenders are eligible for conditional release upon serving one-third of their sentence, and those serving sentences of six months or more are automatically scheduled for a personal hearing before the Board. Offenders serving less than six months must apply in writing for parole consideration.

If parole is granted, the individual resides in the community under the supervision of a Probation and Parole Officer, while adhering to the standard and special conditions stipulated by the Board. Standard conditions involve general reporting and behaviour requirements and attendance at school or employment, while special conditions may require the individual to refrain from alcohol or narcotics, or not associate with certain people.

The Structure of the Ontario Board of Parole

The governing board of the Ontario Board of Parole, known as the Senior Management Committee, is composed of seven members. The Chair is responsible for the over-all administration of the Board. An Executive Vice Chairman and five Regional Vice Chairmen are responsible to the Chair for all Board decisions in the five regions into which it is divided. Other full-time Board members assist the Regional Vice Chairmen with administrative responsibilities, and chair hearings. All are civil servants appointed by Order-in-Council.

The Board also includes part-time members who represent the community at large in the parole decision-making process. They are drawn from the immediate vicinity of Ontario's 46 adult correctional institutions. The Vice Chairmen of the regional offices of the boards are responsible for the work assignments of the part-time Board members, and for providing appropriate training and coordinating financial claims and reimbursements. The services of part-time Board members are required on an "as needed" basis. The average work assignment is normally six to eight days a month. The initial appointment for part-time Board members is normally for a term of one year. Although reappointment is not automatic, a part-time member may be reappointed for a maximum of six years. Appointment is by Order-in-Council.

The following table shows the number of employees of the Board for the three most recent years:

	1988-89	1987-88	1986-87
Government appointees			
Community Part-Time Members	105	103	86
Full-Time Members*	18	18	17
Other Officers**	2	2	2
Office Staff***	30	30	30
Professional Support Staff			
(i) full-time	0	0	0
(ii) consultants	0	0	0

* Includes the Chair and Executive Vice Chairman.

** The two management positions of the Senior Policy Analyst and the Program and Projects Administrator are appointed as part-time members in addition to being civil servants.

*** Includes the Regional Parole Administrative Assistants, the Supervisor, Operational Services, and support staff.

During 1988-89, 25 members left the services of the Board, including 22 community part-time members, two full-time members, and one regional vice chairman. That year, 26 members were newly appointed, including 24 community part-time members, one full-time member and one regional vice chairman.

The profile of staff and Board members is presented below, categorized by the various designated target groups under the Ontario Government's employment equity program. In keeping with this program, the Board continues to seek representation of Ontario's population amongst its staff and members.

PROFILE

March 31, 1989

	TOTAL	FEMALE	RACIAL MINORITY	FRANCOPHONES	ABORIGINALS	PERSONS WITH DISABILITIES
MANAGEMENT STAFF IN CHAIR'S OFFICE	5	4	3	0	0	0
VICE- CHAIRMEN	5	1	0	1	0	0
FULLTIME MEMBERS	11	3	0	0	1	1
COMMUNITY PART-TIME MEMBERS	105	51	7	18	6	0
REGIONAL PAROLE ADMIN. ASSISTANTS	5	4	0	0	0	0
SUPPORT STAFF	24	23	4	6	0	0
TOTAL	155	86	14	25	7	1

How the Ontario Board of Parole Operates

The Board conducts hearings throughout the province at the provincial correctional institutions located in each of its five regions.

The following table shows how the province's 46 adult correctional institutions are grouped under the Board's five regions.

NORTHERN REGION (Sudbury)	Fort Frances Jail Haileybury Jail Kenora Jail Monteith Jail Monteith CC* North Bay Jail	Parry Sound Jail Sault Ste. Marie Jail Sudbury Jail Thunder Bay Jail Thunder Bay CC*
WEST-CENTRAL REGION (Campbellville)	Hamilton-Wentworth DC** Maplehurst CC* Niagara DC**	Ontario Correctional Institute Vanier Center for Women
CENTRAL REGION (Toronto)	Barrie Jail Metro Toronto East DC** Metro Toronto West DC**	Mimico CC* Toronto Jail
EASTERN REGION (Kingston)	Brockville Jail Cobourg Jail Cornwall Jail Lindsay Jail L'Orignal Jail Millbrook CC* Ottawa-Carleton Jail	Pembroke Jail Perth Jail Peterborough Jail Quinte DC** Rideau Correctional & Treatment Centre Whitby Jail
WESTERN REGION (Guelph)	Brantford Jail Burtch CC* Chatham Jail Elgin-Middlesex DC** Guelph CC* Owen Sound Jail	Sarnia Jail Stratford Jail Walkerton Jail Waterloo DC** Wellington DC** Windsor Jail

*Correctional Centre

**Detention Centre

Each inmate eligible to be considered for parole is interviewed by a Ministry of Correctional Services probation and parole officer. The officer coordinates the preparation of a pre-parole case file consisting of reports from probation and parole services, half-way houses, social service agencies, institutions, relatives and employers.

A panel of Parole Board members, usually composed of one full-time and two part-time members, convenes to consider each inmate's case individually. It will review the pre-parole case file and any other information it considers useful and

relevant regarding the character, abilities and prospects of the inmates. The panel will interview the offender, and make the decision to grant or deny parole or to defer the decision to a later date when additional information is available. In all cases, the Board panel must provide the reasons for the decision orally and in writing to the offender. The following indicates the number of full days the Board panels met to consider cases in the three most recent years:

Number of Full Days Board Met

1986-87	2,440
1987-88	2,366
1988-89	2,512

The Board paroles approximately 3,500 persons a year, which is approximately one-half of the total interviewed. Approximately 85% of the parolees complete their parole successfully. Of the remaining 15%, about 13% are revoked for violation of parole conditions. The remaining 2% are revoked for further criminal charges or convictions or at the parolee's request. These figures have been relatively consistent over the last five years.

Finances

The Ontario Board of Parole is funded by the Ministry of Correctional Services. Its budget appears as an item in the estimates for this ministry. The following table shows the total expenditures of the Board for the three most recent years.

	1988-89	1987-88	1986-87
Salaries & Benefits	\$2,222,612.60	\$2,104,222.30	\$1,742,194.10
Transportation & Communications	\$414,376.87	\$450,013.19	\$393,340.99
Services	\$974,089.95	\$894,287.67	\$771,053.07
Supplies & Equipment	<u>\$113,725.76</u>	<u>\$110,464.56</u>	<u>\$157,138.64</u>
TOTAL	<u>\$3,724,805.24</u>	<u>\$3,558,987.86</u>	<u>\$3,063,726.86</u>

The full-time employers are paid salaries ranging as follows:

Position	Salary Range
Chair	\$63,650 to 95,450
Executive Vice Chairman and 3 Vice Chairmen*	\$51,600 to 64,600
Vice Chairmen	\$47,700 to 58,900
Full-Time Members	\$44,900 to 54,700 \$42,700 to 50,800

* These chairmen's higher pay reflects the classifications they had in their previous positions in the ministry, to which they often return upon completion of their terms on the Board.

Community part-time Board members are remunerated at a per diem rate of \$125 per working day, plus expenses.

Accountability and Control

Under the Management Board of Cabinet Directive 6-2-2 of May, 1986, the Ontario Board of Parole is defined as a Schedule 1 Regulatory Agency. This means the Board is subject to all directives established by the Management Board of Cabinet, and is required to enter into a Memorandum of Understanding with the Ministry of Correctional Services. A revised Memorandum of Understanding was signed by the Minister of Correctional Services and the Chair of the Ontario Board of Parole in January, 1990.

While the Ministry of Correctional Services does not issue policy directives or guidelines to the Board, it does share with the Board all Ministry operational policy directives and guidelines. Conversely, the Board shares with the Ministry all Board directives on policies and procedures.

The Chair of the Ontario Board of Parole is a member of the Executive Committee of the Ministry. The Deputy Minister and the Chair meet monthly. The Assistant Deputy Ministers and Executive Co-ordinators of the Ministry meet with the Chair and the Executive Vice Chairman of the Board quarterly. Minutes of the Senior Management Committee meetings of the Board and Board statistical data are shared with senior officials of the Ministry. Ministry personnel are invited to Board conferences and vice versa. The Board makes presentations to the Executive Committee and to the Senior Management Committee of the Ministry. The Chair of the Board is required to submit an annual report each year to the Minister.

In 1985 the Ministry of Correctional Services conducted an operational review of the Ontario Board of Parole to clarify the reporting relationship between the Ministry and the Board and to consider the adequacy of resources available to the Board in fulfilling its mandate. In 1989 the Ministry's Operational Review and Audit Branch conducted an audit of the Board's offices to assess compliance with the Ministry and Management Board of Cabinet's policies and directives. Management consultant studies of the Board's organization and management processes were commissioned in 1987 and 1989. The Board has not been reviewed by a Committee of the Legislative Assembly in the last five years.

In 1989 the Ontario Board of Parole was audited by the Office of the Provincial Auditor. This audit addressed whether procedures followed by the Board showed adequate regard for public safety. It included an examination of 100 files in order to verify that established procedures were followed and that the information on file supported the decisions reached. The Provincial Auditor concluded that the procedures adopted by the Board for making parole decisions were reasonably effective in safeguarding the public. Moreover, given that only two percent of paroles were revoked in the 1988-89 fiscal year because of criminal activities during the parole period, it was reasonable to conclude that the parole process had been effective in safeguarding the public. However, the Provincial Auditor did recommend that better documentation of the rationale for Board members' decisions, together with ongoing reviews of selected cases, would improve their quality and consistency across the province and further reduce the risk to the public. (See Annual Report of the Office of the Provincial Auditor for 1989, pp. 106-107).

In its response to the Provincial Auditor the Board indicated it was aware of the need to improve documentation, and announced that a new comprehensive set of guidelines was being developed for use in parole hearings. In addition, the Board declared it was in the process of designing staff training courses to enhance the skills of Board members in conducting parole hearings, making standard the audio-taping of all parole hearings, and developing a comprehensive program evaluation and review plan. The auditing of files at the regional level in order to review field compliance with Board policies had also been introduced. (See Annual Report of the Office of the Provincial Auditor for 1989, pp. 108-109).

Recommendations

In its testimony the Board announced that it intended to implement audio-taping of all parole hearings. Some Members of the Committee expressed concern that this would constitute an invasion of the prisoners' privacy, and would discourage some potential parolees from 'opening up' to Board interviewers about their problems. The Board replied that taping would only occur with the parolee applicant's consent. Taping was desirable because it provided an accurate record, and was useful for training purposes and reviews.

The Committee therefore recommends that:

6. **The Ministry should conduct a comprehensive review of the issue of audio-taping of parole hearings before the Ontario Board of Parole is allowed to proceed with its plans for taping all parole hearings.**

Some Members of the Committee suggested that parole officers were currently too over-burdened with casework to supervise parolees adequately. The Board replied that it was satisfied with the supervision of parolees.

The Committee recommends that:

7. **The Ministry of Correctional Services should institute a review of the parole system with specific reference to the caseload of parole officers, their pay and working conditions, and the adequacy of the supervision of parolees.**

It was clear from Members' questions that the Board did not have at hand satisfactory statistics regarding the recidivism of parolees compared to non-parolees; the seriousness of the offences committed by recidivists; and the number of parolee applicants who were of native origin. The Committee is concerned that without such data it is impossible to evaluate the appropriateness of Board decisions, and in particular determine whether parole is currently being granted more or less leniently than in previous years.

The Committee therefore recommends that:

8. **The Ontario Board of Parole should collect statistical data on parolees and use this information to evaluate its procedures and the appropriateness of Board decisions.**

The Committee feels that the Parole Board panels could benefit from first-hand testimony about the seriousness of the offence committed by the applicant when determining whether an offender should receive parole.

The Committee therefore recommends that:

9. **Victims of serious crime should be given the opportunity to be heard by Parole Board panels before they make decisions about granting parole to offenders.**

When asked by the Chair of the Committee to indicate any problems it felt should be addressed, the Board replied that information-sharing among criminal justice agencies was unsatisfactory because of "systemic barriers."

The Committee recommends that:

10. **The Ministry of Correctional Services should review the operation of the correctional services program in order to ensure that information is properly shared between the courts and the police on the one hand and the correctional and parole authorities on the other.**

THE ONTARIO STUDENT ASSISTANCE APPEAL BOARD

The Ontario Student Assistance Program (OSAP) was introduced in 1966 to aid post-secondary students from low to middle-income backgrounds with their educational expenses. Its basic premise is that the primary responsibility for educational expenses rests with the student and his or her family. OSAP is designed to supplement and not replace the financial resources available to the student and family.

Under regulations passed pursuant to section 7 of the Ministry of Colleges and Universities Act (R.S.O. 1980, c. 272), a student has the right to appeal the rejection of his or her application for assistance. The OSAP appeal process recognizes that in certain situations the basic expectations of the program regarding the student's or family's financial responsibility for educational expenses may have to be waived or reduced in order to address the individual student's circumstances. Appeals are initially reviewed in the Appeals Section of the Student Awards Branch. If the Appeals Section rejects the student's request for a waiver of or reduction in the student's or family's financial responsibility, the student or his or her on-campus financial aid administrator may request that the appeal be submitted to the OSAP Appeal Board.

Originally the Appeal Board consisted of six financial aid administrators from the province's colleges and universities. This Board was replaced in 1983 by the current OSAP Appeal Board, pursuant to section 3(3) of the Ministry of Colleges and Universities Act, which empowers the Lieutenant Governor in Council to appoint advisory bodies. This Appeal Board was created to provide a means by which a student's unsuccessful appeal could be reviewed by a body independent of the regular appeal process. The Appeal Board has 12 members: four students attending a college or university, four persons from the public at large, and four financial aid administrators. Because the Appeal Board is composed of members from the student population, the public at large and the college and university financial aid administrators, the student is given the opportunity to have his or her individual situation reviewed by peers, the public and program administrators.

The Structure and Organization of the Appeal Board

Currently the Appeal Board consists of the following members:

Name	Position	Date of Appointment to Board
Cuthbert, Ms Aase	FAA	October, 1989
Griffiths, Mr. Robert	FAA	October, 1989
Shaw, Ms Charlene	FAA	October, 1989
Thomas, Ms Mariette	FAA	October, 1989
Au, Mr. Kelvin K.W.	Student	October, 1989
Beckford, Mr. Greg	Student	October, 1989
Simpson, Mrs. Joan	Public	August, 1989
Woermke, Ms Gwendolyn	Public	October, 1989
Babion, Mr. Ross	Public	August, 1989
Bechard, Mr. Leonard	Public	December, 1989

Two of the four positions for student representatives are currently vacant.

The student members are nominated from the colleges and universities by financial aid administrators (FAAs) and student union presidents and approved by the Minister of Colleges and Universities. While there is no formal limitation on the number of terms of appointment, they usually serve for one to two terms. The public members are from the public at large and are approved by the Minister of Colleges and Universities. There is no formal limitation on the number of terms of appointment for public members. The financial aid administrator members are nominated by the Ontario Association of Student Financial Aid Administrators and approved by the Minister of Colleges and Universities. They serve one term.

The Appeal Board has neither employees nor a budget of its own. Administrative and financial assistance is provided by the Student Awards Branch of the Ministry of Colleges and Universities.

The OSAP appeal process

According to the OSAP Information Instructions for 1989-90, the following are grounds for an appeal of the initial OSAP assessment.

Exceptional expenses

An applicant may appeal for additional assistance to cover exceptional expenses such as uninsured medical or dental costs.

A change in the student's financial circumstances

If a student's financial status or expenses change after the original application for assistance, or after the student has received a grant or loan, he or she may be eligible for additional assistance through an appeal.

Inability to make the expected contribution

If the student is unable to contribute the expected amount towards his or her educational expenses, he or she may be eligible for additional assistance through an appeal.

An appeal for additional assistance must be made (and received by the Ministry) at least eight weeks before the end of the current academic year.

During the 1988-89 academic year (the last year for which statistics were available), there were 2,099 appeals to the Appeals Section of the Student Awards Branch.

The Operation of the Appeal Board

At the beginning of each academic year in August, Ministry of Colleges and Universities staff conduct a day-long orientation for Appeal Board members. This orientation familiarizes members with OSAP, the appeal process and the types of appeals they will be reviewing.

Appeal Board panels normally meet via tele-conference once per week as required throughout the academic year. A Board panel will usually be composed of one student

representative, one financial aid administrator from a college or university, and one public representative. Representation on the panels from among the Board members is rotated and at no time is a student or financial aid administrator from the same college or university as the appeal being reviewed called upon to attend.

Cases are usually heard within two weeks of a request being made. Copies of all documentation pertaining to the cases are forwarded to the members of the Board before the hearing. Financial aid administrators in the colleges and universities are available to assist students in drafting their appeals. A Ministry official will assist the Board by organizing its meetings, monitoring its activities and recording its decisions. Decisions of the Board are recorded in the student's file and each Board member participating in the hearing will sign below the decision as an indication of his or her acceptance of the majority vote.

The following shows the number of times the Appeal Board met in the three most recent years.

1986-87	- No. of meetings	- 8 (approximately)
	- No. of cases	- 11
1987-88	- No. of meetings	- 11 (approximately)
	- No. of cases	- 13
1988-89	- No. of meetings	- 20 + 2 orientation sessions
	- No. of cases	- 45

Board members receive a per diem of \$30 for every one-half day of a hearing and \$60 for a full day.

The following shows the disposition of appeals to the Board in the 1988-89 academic year:

- Appeals accepted as presented: 8 (18%)
- Appeals accepted with modifications: 9 (20%)
- Appeals denied: 28 (62%)
- Total reviewed: 45

Accountability and Control

Under the Management Board of Cabinet Directive 6-2-2 of May, 1986, the OSAP Appeal Board is classified as a Schedule 1 regulatory agency. It entered into a

Memorandum of Understanding with the Minister of Colleges and Universities in 1981. The Appeal Board is accountable to the Lieutenant Governor in Council through the Minister. This accountability is achieved through Ministry liaison at Appeal Board meetings, regular consultations with Ministry staff, and Ministry control over the Board's expenses. In addition, the Ontario Association of Financial Aid Administrators, whose members are employees of provincial colleges and universities and eligible to sit on the Board, regularly reports to the Ministry on the operation and procedures of the Appeal Board.

A sunset review of the OSAP Appeal Board was completed in November, 1986. It concluded that the Appeal Board should continue in operation and that there be no change in its structure or relationship with the Minister of Colleges and Universities.

Recommendations

Members asked the witnesses representing the Appeal Board why such a high percentage of appeals were accepted at the Branch level. They replied that the original OSAP policy was written in 1978, and since then social conditions had changed. Because of family breakdowns students could no longer rely on their parents for financial support. The appeal process enabled the Student Awards Branch to adjust for this factor. Since a large percentage of the appellants to the Branch succeeded, usually those who were rejected at that level recognized that they did not have credible cases, and decided to drop the appeal.

The witnesses indicated that an OSAP Policy Review was underway. They suggested that once the OSAP criteria were revised to reflect the new social reality, the number of appeals would go down.

The Committee agrees that social conditions have changed since 1978 and the OSAP criteria need reviewing.

The Committee therefore recommends that:

11. **The Ministry of Colleges and Universities should monitor the Ontario Student Assistance Program Appeal Board's caseload after the new criteria are introduced in 1991. If the caseload does not decline as anticipated, the Ministry should institute a review of the Board's mandate.**

The witnesses conceded that perhaps a greater effort should be made to publicize the existence of the Appeal Board in the OSAP literature.

The Committee therefore recommends that:

12. **The Ontario Student Assistance Program Appeal Board should receive a higher profile in the Ontario Student Assistance Program literature distributed to students. The criteria the Appeal Board use to award funding on appeal should be highlighted in this literature.**

The witnesses conceded that the OSAP form was complex, but indicated that a new simpler version would be available by April 1, 1990. Although an attempt to simplify the application form has been made by the Ministry and the Student Awards Branch, the Committee sees an opportunity for further improvement.

Members asked the witnesses to explain how the Branch checked to ensure that the information provided on the students' application forms was accurate. In their reply the witnesses conceded that auditing took place after the applications for OSAP had been granted and funds released.

The Committee therefore recommends that:

13. **The Ontario Student Assistance Program Appeal Board should examine its auditing procedures and consider implementing an audit mechanism before funds are released.**

The witnesses indicated that the Policy Review was considering the special needs of disabled students. The Committee supports the Student Awards Branch's decision to consider the special needs of disabled students in the current Policy Review.

THE ONTARIO TRAINING CORPORATION

The Ontario Training Corporation (OTC) was established on April 27, 1988 by articles of incorporation under the Business Corporations Act (S.O. 1982, c. 4), with the Minister of Skills Development as sole shareholder. The corporation is a Crown corporation within the meaning of the Crown Agency Act (R.S.O. 1980, c. 106).

The OTC is one element in Ontario's Training Strategy, which was announced by the Peterson government in September, 1986. This Strategy is designed to nurture an environment in which employers and individuals understand the importance of lifelong learning and training, such that skills development becomes a normal and continuing part of the work experience.

The objectives of the OTC as set out in its articles of incorporation are:

- to support the development of sophisticated and competitive workplace training in Ontario;
- to operate a Skills Bank that offers a broad information base on training products and services;
- to invest in the development of training materials which meet the workplace needs of selected sectors in the economy;
- to invest in the development of technologies to be applied in workplace training; and
- to strengthen the skills of trainers and training professionals in the province.

The Board of Directors

The first Board of Directors of the OTC was elected by the Minister of Skills Development in his capacity as sole shareholder in March, 1988. The Board can have up to 14 members and is drawn from the business, labour and training communities.

The Chair of the Board is David Lewis, of Midland Doherty Financial Corporation. The Chief Executive Officer is Sandra Birkenmayer.

The following is a list of the names, positions and dates of appointment of the current Board of Directors.

Name and Position	Appointed	Re-Appointed	Term
David Lewis (Chair) Chairman Midland Doherty Financial Corporation Toronto	May 4, 1988		3 years
Dick Barry President United Electrical Radio and Machine Workers of Canada (UE) Toronto	June 20, 1989		1 year
John Bettes National Representative Canadian Auto Workers Willowdale	May 4, 1988		2 years
Joan Bolland Vice President Eastern Region Human Resources Rogers Telecommunications Don Mills	May 4, 1988	June 20, 1989	2 years
Lawrence Martin Executive Director WaWatay Native Communications Society Sioux Lookout	June 20, 1989		2 years
Rose Patton Senior Vice President Corporate Human Resources & Organizational Development Manufacturers Life Insurance Company Toronto	May 4, 1988		2 years
Gary Polonsky President Durham College of Applied Arts and Technology Oshawa	June 20, 1989		2 years
M. Elizabeth Smith Training Consultant Collingwood	May 4, 1988	June 20, 1989	1 year
Herman Stewart Business Manager International Ladies Garment Workers Union Toronto	May 4, 1988	June 20, 1989	2 years
Vilma Tullo President Medici Investments Ltd. Toronto	May 4, 1988		2 years
Larry Zeph President Zeph Technologies Inc. Waterloo	June 20, 1989		2 years

Three positions on the Board are currently vacant.

The responsibilities of the Board of Directors are to manage the business of the Corporation in accordance with the Business Corporations Act and the policy directives of the Minister of Skills Development. Among other duties, the Board of Directors is required to:

- a. carry out the mandate and objects of the Corporation;
- b. meet from time to time, not less than six (6) times a year to carry out the business of the Corporation;
- c. make by-laws regulating the business and affairs of the Corporation and submit such by-laws to the Minister for approval before such by-laws come into force;
- d. appoint as Chair of the Board of the Corporation the person designated by the Minister, and subject to the approval of the Minister, prescribe the powers and duties of the Chair;
- e. subject to the approval of the Minister, appoint a person to serve as Chief Executive Officer and President of the Corporation;
- f. subject to the approval of the Minister prescribe the powers and duties of the Chief Executive Officer and President to include but not be limited to the following:
 - i) responsibility for the overall planning, direction and management of the Corporation;
 - ii) responsibility for overseeing the Corporation's main business activities, its human resources planning and management, and its communication and marketing programs;
 - iii) liaison with the Deputy Minister of Skills Development each quarter on operational and other matters of concern to either the Deputy Minister or the President;
- g. appoint the officers of the Corporation, specify their duties and delegate to them powers to manage the business and affairs of the Corporation in accordance with the Business Corporations Act;
- h. develop investment policy guidelines for the Corporation's training materials and training technologies investment funds subject to the approval of the Minister.

In 1988-89 the full Board of Directors met nine times. There were also 11 meetings of committees of the Board. These committees are: Audit, Investments, Human Resources and External Relations.

The following shows the number of employees of the OTC:

1988-89

Officers	4*
Office Staff	15
Professional	3
Full-time Support Staff**	5

* The President/Chief Executive Officer and three Vice-Presidents are deemed officers of the OTC under the Business Corporations Act.

** Consultants have been hired from time to time; however, there are no such employees currently on staff.

Operations

1988-89 was the OTC's first year of operation. In this year the Corporation secured office space, established the administrative and financial infrastructure, put in place a senior management team and staff, and ensured that the Board of Directors and Board Committees were fully operational. By July, 1988 an Operational Plan for 1988-89 was in place, and by November, 1988 the Board of Directors had approved a Strategic Plan for 1989-90 to 1991-92. The Board has since approved an updated Strategic Plan, for 1990-1991 to 1992-93.

The OTC attempts to fulfill its mandate to stimulate quality training in the workplace through the operation of three businesses.

1. SkillsLink: The objective of SkillsLink is to make training more accessible to employers and employees by providing more and better information about training products, materials and services. SkillsLink (also known as the Skills Bank) is a computer database which lists all workplace training products and services available in Ontario. Community college courses, private vocational school courses, workshops, seminars, training consultants and self-study materials are listed. The database is accessed via a telecommunications system onto the personal computer of a subscriber.
2. Professional Development for Trainers: The purpose of this program is to provide leadership in the enhancement of training skills of people who are involved with workplace training in Ontario. Professional Development services include sponsorship of conferences and seminars designed for trainers and the enhancement of training skills, and pro-active involvement in the development and implementation of industry accepted standards of excellence in training.

3. Training Investment Funds: These funds support the development of quality training products which meet the identified needs of business and industry in Ontario. The Training Materials Fund finances the development of courses for sale to Ontario businesses which deal with such subjects as vocational, technical, professional, supervisory, management and executive development. The Training Technology Fund invests in new tools and techniques which are used in developing and delivering effective workplace training.

Finances

The OTC is funded by an annual operating grant from the Ministry of Skills Development. The basis of Ministry approval of the grant is the OTC's Three Year Strategic Plan, which is updated annually and forwarded to the Minister by September of each year for discussion and approval.

In 1988-89 the operating grant was \$4 million. The following shows how this funding was allocated.

Acquisition of Fixed Assets	1,239,000
Operations	1,208,000
Start-up Expense	630,000
Deferred Funding for 1989/90*	<u>923,000</u>
	<u>4,000,000</u>

* Funding not spent in the year it is received is included as a deferred contribution.

For 1989-90 the approved allocation is \$6.8 million.

Total expenses for 1988-89 amounted to approximately \$3 million. The following provides a breakdown of expenses by category:

Salaries and Benefits	\$ 545,000
Travel and Communications	35,000
Services	1,199,000
Supplies and Equipment	<u>59,000</u>
	1,838,000

Fixed Assets:	
Furniture & furnishing	\$ 286,000
Computers	405,000
Training database software	395,000
Telephone & office equipment	<u>153,000</u>
	\$1,239,000

TOTAL

\$3,077,000

The following shows the expenses for 1989-90.

9 months Expenditures to December 31, 1989

Salaries & benefits	\$1,251,000
Travel & communications	75,000
Services	750,000
Supplies & equipment	<u>76,000</u>
	\$2,152,000
Fixed Assets:	
Furniture & furnishings	\$ 34,000
Computers	85,000
Training database software	105,000
Telephone & office equipment	<u>102,000</u>
	\$ 326,000
TOTAL	<u>\$2,478,000</u>

Members of the Board of Directors are paid a per diem of \$175, and the Chair a per diem of \$300, for each day they are engaged in Board duties. All the Directors are reimbursed for their travel and living expenses incurred in connection with their duties as Directors.

Under the OTC's Memorandum of Understanding with the Ministry of Skills Development, the OTC is required to earn revenues from the operation of its three businesses. All revenues must be re-invested in the OTC's businesses. Under the OTC's Strategic Plan for 1990-1993, revenue should begin to be generated in fiscal year 1991-1992. The OTC is committed to generating sufficient revenues to at least cover all of its operational and administrative costs by the end of fiscal year 1992-1993.

Accountability and Control

The OTC has been designated a Schedule II operational agency under the authority of Management Board of Cabinet Directive 6-2-2. A Memorandum of Understanding was signed by the Minister of Skills Development and the Chair of the OTC in April, 1989.

As sole shareholder of the OTC, the Minister of Skills Development (or his delegate, the Deputy Minister of Skills Development) has the following responsibilities:

- a. to communicate to the Board of Directors those policies of the Ontario government that apply to the Corporation;

- b. subject to the prior approval of the Executive Council of Ontario, to elect all Directors of the Corporation and designate a Director of the Corporation as the Chair of the Board of the Corporation;
- c. to approve the powers and duties of the Chair of the Board of the Corporation;
- d. to approve the appointment of the Chief Executive Officer and President by the Board of Directors and approve the powers and duties of the Chief Executive Officer and President;
- e. to receive the annual report and audited financial statements of the Corporation and table the report and financial statements before the Legislative Assembly if it is in session, and if not, at the next ensuing session;
- f. to receive, review, and approve or reject the annual budgets, and multi-year corporate plan as submitted by the Board of Directors;
- g. to provide advice, and if appropriate, direction as the Minister may deem necessary from time to time to the Board of Directors with respect to the implementation of the objects of the Corporation;
- h. to obtain the necessary governmental authority to enable the Corporation to carry out its mandate including the prior approval for government funding of the Corporation and the prior approval of the Treasurer of Ontario, where necessary, for financial arrangements;
- i. to confirm, or reject all by-laws and approve or reject investment policy guidelines of the Corporation as made, amended or repealed by the Board of Directors;
- j. to appoint the auditor for the Corporation;
- k. to call upon the advice and counsel of the Board of Directors, as and when appropriate, with respect to policy, planning, and business activities of the Corporation.

The Minister of Skills Development has appointed the Provincial Auditor as the external auditor of the OTC. The Board of Directors, through its Audit Committee, is responsible for ensuring that management fulfills its responsibilities for financial reporting and internal controls. The Audit Committee meets regularly with management and periodically with the external auditor. The external auditor has direct access to the Audit Committee and the Board of Directors with and without the presence of management to discuss the audit and its findings.

Recommendations

The witnesses from the OTC acknowledged that the three labour representatives on the Board of Directors (Dick Barry, John Bettes and Herman Stewart) have refused to

participate in Board meetings for the last three months. They suggested that the labour representatives' objections had more to do with the government's over-all skills development strategy, than with the Corporation as such. Mr. David Lewis, the Chair of the Corporation, suggested that the labour representatives felt skills training should be done by the public sector, because reliance on voluntary efforts by the private sector was not working.

Subsequently the Committee has heard from some of the labour representatives, as well as Mr. Jim Turk, a former labour representative and currently the Director of Education for the Ontario Federation of Labour. They indicated that the Ontario Federation of Labour had requested they cease attending Board meetings because the Federation disagreed with the commercial orientation of the Corporation, and because the Corporation's businesses competed wastefully with the non-profit programs offered by unions and community colleges.

The Committee therefore recommends that:

- 14. The Committee is concerned about the lack of input from the labour movement. The Ontario Training Corporation should immediately review its mandate in consultation with the Ontario Federation of Labour and the Minister of Skills Development.**

In its Strategic Plan and Memorandum of Understanding, the OTC committed itself to generating enough revenue by 1992-93 to cover the operational and administration costs of running its three businesses. In the Plan, the OTC acknowledged that this goal is optimistic and based on a set of stated assumptions:

The SkillsLink plan assumes that a broad spectrum of businesses of all sizes and types will be prepared to pay a reasonable price for a training database. The Investments plan assumes that the training developers in Ontario have the desire and capacity to absorb millions of venture capital dollars to develop new training products and technologies. The validity of these assumptions and hence the viability of the plans, will become known as a result of ongoing market research and operational experience.

In its initial Strategic Plan, the OTC based its revenue projections on the assumption it would receive an annual grant from the Ministry of Skills Development of \$6.8 million

(with an annual adjustment for inflation), through to the end of fiscal year 1992-93. However, in its most recent Plan, the OTC acknowledges that a grant of \$6.8 million will not be enough to cover the operating costs of the Corporation in 1990-91. It says that the principal reasons for its mistaken projection are:

- inflation;
- underestimates of start-up and ongoing operational costs;
- compliance with the French Language Services Act; and
- imposition of new taxes, e.g., payroll and space taxes.

The OTC expects to spend approximately \$8.5 million in 1990-91. It will request a grant from the ministry for 1990-91 of \$7.2 million, which constitutes a 6% increase on its grant of \$6.8 million for 1989-90. The 6% increase would cover inflationary costs. This would still leave the Corporation short \$ 1.3 million.

The Committee questioned the witnesses about these figures. They conceded that at this point in time (March, 1990) it was uncertain whether the OTC would meet its financial objectives.

The Committee recognizes that the OTC has been in operation for little over a year and that it is too early to pass judgement on the viability of its businesses. However, the Committee does have concerns about the operation of the Corporation.

The Committee therefore recommends that:

- 15. The Ministry of Skills Development should closely monitor the Ontario Training Corporation, and it should be asked to appear before the Committee again in a year.**

The Committee believes that the Minister should consider amending the OTC's Memorandum of Understanding to clarify its mandate. It might be advisable for the Corporation to be reconstituted either as a commercial operation which is expected to earn revenue, or as an agency which delivers a service.

The witnesses acknowledged that the SkillsLink data base did not include a complete list of all training courses and materials offered by the labour movement and by the Ontario government. The Committee considers these to be glaring omissions.

The Committee therefore recommends that:

16. **The Ontario Training Corporation should make every effort to ensure that the SkillsLink data base is as up to date and as comprehensive as possible. The data should be presented in a format which is practical and applicable.**

APPRENTICESHIP AND TRADESMEN'S PROVINCIAL ADVISORY COMMITTEES

Under section 3(1) of the Apprenticeship and Tradesmen's Qualification Act (R.S.O. 1980, c. 24, as am. by S.O. 1986, c. 64) the Minister of Skills Development may appoint Provincial Advisory Committees (PACs) "to advise him in matters relating to the establishment and operation of apprentice training programs and tradesmen's qualifications." Thirty-nine separate PACs are formally in existence and responsible for advising the Minister on issues affecting sixty-six trades in Ontario. Under section 3(2) of the Act, every PAC must have at least five members, including an equal number of representatives from employers and employees, as well as one appointee from the Ministry of Skills Development.

PAC members have specialized knowledge of a particular trade, and provide the Minister with current information and advice on issues and trends affecting the training requirements in that trade. They help to ensure that Ontario's apprentice training programs are kept up to date and relevant.

Structure and Organization of PACs

The active PACs usually have a membership of 10 to 12. The Chair of a PAC changes each year, and is held alternately by employer and employee representatives. The Ministry official designated to sit on each PAC acts as the secretary to the Committee, resource person, and liaison with the Ministry. He or she does not have the right to vote. Each PAC is encouraged to have a registered apprentice as one of their employee representatives. PAC members are appointed for terms of one, two or three years and, having served a term, may not be reappointed for at least two years.

The following is a list of the PACs formally in existence and the regulated trades for which they are responsible.

Provincial Advisory Committee for the trade of

Regulated trades

Painter and Decorator

- Painter and Decorator
 - Commercial and residential
- Painter and Decorator
 - Industrial

Electrician

- Construction and Maintenance Electrician
- Domestic and Rural Electrician

Provincial Advisory Committee
for the trade of

Regulated trades

General Carpenter	· ---
Glazier and Metal Mechanic	· ---
Lineman	· Lineman - Power · Lineman - Construction
Plumber and Steamfitter	· Plumber · Steamfitter
Refrigeration and Air-Conditioning Mechanic	· ---
Sprinkler and Fire Protection	· ---
Construction Boilermaker	· ---
Motor Vehicle Mechanic	· Motor Vehicle Mechanic - Fuel and Electrical Systems · Transmission Mechanic - Alignment and Brakes
Farm Equipment Mechanic	· ---
Automotive Machinist	· ---
Heavy Duty Equipment Mechanic	· ---
Motorcycle Mechanic	· ---
Auto Body Repairer and Painter	· Auto Body Repairer · Automotive Painter
Precision Metal Machinist	· General Machinists · Tool and Die Maker · Mould Maker
Baker	· Baker · Junior Baker · Pâtissier
Cook	· Cook · Assistant Cook
Hairstylist	· Hairstylist · Barber · Hairdresser
Radio and Television Service Technician	· ---
Sheet Metal Worker	· ---

Provincial Advisory Committee
for the trade of

Regulated trades

Brick and Stone Mason	·	Cement Mason
Construction Millwright	·	---
Industrial Mechanic (Millwright)	·	---
Horticulturist	·	Horticulturist Nursery - Greenhouse Worker
	·	Horticulturist Landscaper - Greenskeeper
Fitter (Structural Steel/ Platework)	·	---
Industrial Electrician	·	---
Packaging Machine Mechanic	·	---
Cabinet Maker/Woodworking Machinist	·	---
Air Cooled and Marine Engine Mechanic	·	Small Engine Mechanic, Marine & Small Powered Equipment
	·	Small Engine Mechanic, Construction - Boat Motor Mechanic
Instrumentation Mechanic	·	---
Truck/Coach Mechanic	·	---
Chemical Process Operator	·	---
Fork Lift Truck Mechanic	·	---
Automatic Machinist	·	---
Hoisting Engineer	·	Mobile Crane Operator
	·	Tower Crane Operator
Welder	·	---
Trades Updating	·	---

The following shows the cumulative totals of all PAC meetings for the three most recent years.

1986-87: 30
1987-88: 24
1988-89: 23

The total number of government appointees to PACs for the three most recent years are as follows.

1986-87:	172
1987-88:	183
1988-89:	51

Support staff for the PACs are supplied by the Ministry of Skills Development. In 1988-89, 10 ministry officials were assigned to the PACs.

Nominations for membership on a PAC are solicited from industry organizations, contractor associations, unions, community groups concerned with non-traditional training for under-represented groups, community colleges, and technical teachers' associations, among others.

The Minister's selections are made with the objective of assembling a group of qualified individuals able to represent the broadest range of constituency groups. Ministerial appointments are made on the basis of a nominee's:

- ability to provide quality advice on a variety of training issues;
- ability to provide technical expertise in a skilled occupation or cluster of occupations;
- understanding of broader training issues that go beyond the context of a specific trade, e.g., issues that have an impact on an entire sector of trades, or on the entire skilled labour force;
- demonstrated commitment to quality training;
- ability to commit time towards committee work;
- status as employer, employee or apprentice;
- geographical area;
- company's size or type;
- union or non-union status; and
- ability to represent the interests of target groups such as women.

Each PAC is encouraged to include as resource members representatives from colleges of applied arts and technology, women's community groups, technical teachers' associations, unions and trade associations. These appointees are considered to have full committee membership status in their advisory capacity but do not have voting privileges.

Operations

The PACs advise the Minister on:

- standards of certification for trades;
- current and projected skilled labour requirements;
- the qualification criteria (e.g., age and education) for entry to apprentice training programs;
- duration and format of apprentice training programs;
- the curriculum of apprentice training programs;
- the impact of new technology; and
- the appropriate wage rates for apprentices and the ratios of apprentices to journeymen.

This advice helps the Minister to:

- establish priorities in the development of emerging occupational trades;
- develop initiatives for responding to the critical needs of the labour market; and
- prioritize the allocation of resources in the most efficient way to meet the needs of the labour market as it adjusts to new technologies and other market forces.

Each PAC is expected to recommend to the Minister of Skills Development any amendments it deems appropriate to the legislation in the trade area for which it serves as an advisory body, as well as review any amendments drafted by the Ministry.

Any recommendations proposed by a PAC must receive the support of a majority of its members. The Chair of the PAC is responsible for submitting its recommendations to the Director of Apprenticeship in the Ministry. Within three months of the date of the submission, the Chair will be formally advised by a letter from the Minister of the action to be taken.

Finances

PAC members are reimbursed for their travel, meal and incidental expenses, and are entitled to a per diem of \$50 for each working day. The PACs do not have an independent budget. All funding for their operation and members' expenses is allocated through the budget of the Apprenticeship Branch of the Ministry of Skills Development. Expenditures are approved by the Manager of Program Standards of the Apprenticeship Branch.

The following shows the total expenses of the PACs for the three most recent years.

1986-87:	\$51,700
1987-88:	\$33,000
1988-89:	\$32,900

Accountability and Control

The PACs are accountable to the Minister through the Director of Apprenticeship. A comprehensive sunset review of the PACs was submitted to Management Board on November 15, 1988. As a result Management Board decided to extend the life of the PACs until 1993.

Recommendations

According to Ministry officials many PACs have been dormant in recent years. The sunset review identified strengths and weaknesses of the PAC system, and offered a program to revitalize their operation. Management Board has accepted this review's recommendations.

According to the sunset review, the existing system of PACs suffered from the following weaknesses:

- the mandate of PACs is somewhat narrowly defined against the important challenges for the skilled trades today;
- improved reporting mechanisms and effective measurement criteria are needed;
- while the current model of 39 separate trade-specific committees fits their particular needs, it does not appear to lend itself to cross-communication on non-trade-specific issues such as cross-crafting, rations, safety issues, funding problems, access problems, etc.;

- the PACs appear to require some provision for broader representation of key stakeholders in the apprenticeship system;
- although some members choose not to claim their \$50 per diem, the current rate requires further review as it appears to be inconsistent with the Ministry's message of placing a high value on apprenticeship and the trades expertise provided by members; it may also limit recruiting ability;
- the current appointments procedure does not appear efficient, with some committees currently inactive strictly due to incomplete membership.

The following is an outline of the major steps the review recommended should be undertaken by the Ministry of Skills Development in order to revitalize the PACs:

- initiate a full consultation strategy with current PAC members regarding roles and responsibilities;
- explore alternative models to the current one of 39 trade-specific PACs;
- consult with the PACs to ensure that all the relevant constituencies are represented on them; and
- require PACs to file an annual report.

Management Board and the Ministry of Skills Development have accepted the recommendations of this review and agreed to revitalize the PACs.

The witnesses from the Apprenticeship Branch of the Ministry of Skills Development conceded that the Provincial Advisory Committees (PACs) had mostly been dormant in 1989. They acknowledged that the revitalization process currently underway had not been as successful as the Branch had anticipated. Members were concerned that only five of the 39 PACs which formally existed were in fact active.

Some Members questioned the utility of the PAC system. Consultation between industry, unions and the province took place regularly on an ad hoc basis in a number of forums. The Committee believes that the fact that only five PACs actually exist demonstrates that a formal, permanent consultative structure is not needed.

The Committee therefore recommends that:

- 17. The Minister of Skills Development should terminate the revitalization process.**

The Committee believes that the policy rationale for the PAC structure can be accomplished through ad hoc meetings under the auspices of the Ministry when they are needed.

The Committee therefore recommends that:

- 18. When representatives of a trade wish to consult among themselves and with the Ministry, the Minister should determine whether a meeting is necessary. The Minister should be responsible for organizing ad hoc advisory Committee meetings and ensuring that all stakeholders are invited.**

Members were concerned that the PACs did not make their recommendations directly to the Minister, but reported to the Apprenticeship Branch. The witnesses indicated that this policy was being reviewed.

The Committee therefore recommends that:

- 19. Provincial Advisory Committees should report directly to the Minister, and not through officials in the Apprenticeship Branch.**

SUMMARY OF RECOMMENDATIONS

1. The Ministry of Colleges and Universities should respond to the Gandz Commission as soon as possible.
2. The College Relations Commission should develop written criteria to be used when making a jeopardy advisement. This criteria should direct the Commission to take into consideration all available information on the effect of past strikes on the drop-out rate among students.
3. The College Relations Commission should make every effort to collect up-to-date information on the issues at stake, particularly regarding teaching assignments and workload, and make this information available to the parties. The Commission should assign one employee to this task.
4. While collective bargaining should continue to take place at the provincial level, local bargaining should be strongly encouraged within this provincial framework.
5. The Custody Review Board should be abolished.
6. The Ministry should conduct a comprehensive review of the issue of audio-taping of parole hearings before the Ontario Board of Parole is allowed to proceed with its plans for taping all parole hearings.
7. The Ministry of Correctional Services should institute a review of the parole system with specific reference to the caseload of parole officers, their pay and working conditions, and the adequacy of the supervision of parolees.
8. The Ontario Board of Parole should collect statistical data on parolees and use this information to evaluate its procedures and the appropriateness of Board decisions.
9. Victims of serious crime should be given the opportunity to be heard by Parole Board panels before they make decisions about granting parole to offenders.
10. The Ministry of Correctional Services should review the operation of the correctional services program in order to ensure that information is properly shared between the courts and the police on the one hand and the correctional and parole authorities on the other.
11. The Ministry of Colleges and Universities should monitor the Ontario Student Assistance Program Appeal Board's caseload after the new criteria are introduced in 1991. If the caseload does not decline as anticipated, the Ministry should institute a review of the Board's mandate.
12. The Ontario Student Assistance Program Appeal Board should receive a higher profile in the Ontario Student Assistance Program literature distributed to students. The criteria the Appeal Board use to award funding on appeal should be highlighted in this literature.

13. The Ontario Student Assistance Program Appeal Board should examine its auditing procedures and consider implementing an audit mechanism before funds are released.
14. The Committee is concerned about the lack of input from the labour movement. The Ontario Training Corporation should immediately review its mandate in consultation with the Ontario Federation of Labour and the Minister of Skills Development.
15. The Ministry of Skills Development should closely monitor the Ontario Training Corporation, and it should be asked to appear before the Committee again in a year.
16. The Ontario Training Corporation should make every effort to ensure that the SkillsLink data base is as up to date and as comprehensive as possible. The data should be presented in a format which is practical and applicable.
17. The Minister of Skills Development should terminate the revitalization process.
18. When representatives of a trade wish to consult among themselves and with the Ministry, the Minister should determine whether a meeting is necessary. The Minister should be responsible for organizing ad hoc advisory Committee meetings and ensuring that all stakeholders are invited.
19. Provincial Advisory Committees should report directly to the Minister, and not through officials in the Apprenticeship Branch.

APPENDIX A

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Terms of Reference

Standing Order 90(g)

Standing Committee on Government Agencies which is empowered to review and report to the House its observations, opinions and recommendations on the operation of all agencies, boards and commissions to which the Lieutenant Governor in Council makes some or all of the appointments, and all corporations to which the Crown in right of Ontario is a majority shareholder, such reviews to be made with a view to reducing possible redundancy and overlapping, improving the accountability of agencies, rationalizing the functions of the agencies, identifying those agencies or parts of agencies which could be subject to sunset provisions, and revising the mandates and roles of agencies;

APPENDIX B

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Schedule of Hearings and Witnesses

Monday, 19 February 1990

Re: College Relations Commission

3:00 p.m.

From the College Relations Commission:

Katherine Swinton
Chair

David Hayes
Vice-Chair

Robert Saunders
Chief Executive Officer

Ed Aim
Director of Field Services

Sharon McElroy
Director of Information Services

Wednesday, 21 February 1990

Re: Custody Review Board

11:00 a.m. and 2:00 p.m.

From the Custody Review Board:

Lorraine Watson
Chair

Keith Quigg
Board Member

Murielle Labrie
Co-ordinator
Custody Review Board
Ministry of Community and Social Services

Anne Sheffield
Ministry of Community and Social Services

Jane Rogers
Ministry of Community and Social Services

Nancy Lunney
Ministry of Community and Social Services

Thursday, 22 February 1990

11:00 a.m. and 1:30 p.m.

Re: Ontario Board of Parole

From the Ontario Board of Parole:

Sheila Henriksen
Chair

Ken Sandhu
Executive Vice-Chair

Murray Chitra
Director of Legal Services
Ministry of Correctional Services

Beverly Wilkinson
Board Member

Marian McGuire
Senior Policy Advisor

Monday, 26 February 1990

3:30 p.m.

Re: Ontario Student Assistance Program Appeal Board

From the Ontario Student Assistance Program Appeal Board:

Jan Donio
Director
Student Awards Branch
Ministry of Colleges and Universities

Jo-Anne Kuszner
Manager of Appeals
Student Awards Branch

Monday, 5 March 1990

3:00 p.m.

Re: Ontario Training Corporation

From the Ontario Training Corporation:

David Lewis
Chair

Sandra Birkenmayer
Chief Executive Officer

Anne Kerr
Vice-President of Finance and
Administration

Barbara Zuppinger
Vice-President of Training Services

Bob MacBean
Vice-President of Investment Funds

Wednesday, 7 March 1990

Re: Apprenticeship and Tradesmen's Advisory
Committees

11:00 a.m.

From the Apprenticeship and Tradesmen's
Advisory Committees:

Peter Landry
Director
Apprenticeship Branch
Ministry of Skills Development

George Fell
Program Co-ordinator
Apprenticeship Branch

Thursday, 8 March 1990

Re: College Relations Commission

10:00 a.m.

Professor Jeffrey Gandz
Faculty of Business Administration
University of Western Ontario

APPENDIX C

Agencies, Boards and Commissions reviewed to date

1st Review:
(9 November 1978)

Waste Management Advisory Board
Pesticides Advisory Committee
Ontario Food Council
Agricultural Research Institute
Alcoholism and Drug Addiction Research Foundation
Ontario Institute for Studies In Education
Education Relations Commission
Farm Machinery Board
Land Compensation Board of Ontario
Milk Commission of Ontario
Cream Producers' Marketing Board
St. Lawrence Parks Commission
Ontario Council for the Arts
Ontario Heritage Foundation

2nd Review:
(3 December 1979)

Ontario Research Foundation
Ontario Telephone Service Commission
Ontario Housing Corporation
Ontario Food Terminal Board
Ontario Council of Health
Ontario Municipal Board

3rd Review:
(2 December 1980)

Ontario Educational Communications Authority
Ontario Lottery Corporation
Board of Ophthalmic Dispensers
Ontario Labour Relations Board
Ontario Northland Transportation Commission
Liquor Control Board of Ontario

4th Review:
(19 November 1981)

Ontario Racing Commission
Ontario Hockey Development Committee
Farm Pollution Advisory Committee
Ontario Place Corporation

5th Review:
(11 May 1982)

Ontario Board of Censors
Ontario Energy Board
Ontario Police Commission
Toronto Area Transit Operating Authority

6th Review:
(7 December 1982)

Art Gallery of Ontario
Civil Service Commission
Commission on Election Contributions and Expenses
Ontario Mortgage Corporation
Wolf Damage Assessment Board

7th Review:
(15 December 1983)

Criminal Injuries Compensation Board
The Law Society of Upper Canada
Ontario Cancer Treatment and Research Foundation
Ontario Manpower Commission
Ontario Status of Women Council

8th Review:
(21 June 1984)

Alcohol and Drug Addiction Research Foundation
Board of Funeral Services
Board of Parole
Board of Visitors of Homewood Sanitarium, Guelph
Crop Insurance Commission of Ontario
Game and Fish Hearing Board
IDEA Corporation
Nursing Homes Review Board
Social Assistance Review Board

9th Review:
(19 November 1984)

Animal Care Review Board
Children's Services Review Board
Niagara Parks Commission
Niagara Falls Bridge Commission
Ontario International Corporation
Ontario Junior Farmer Establishment Loan Corporation

10th Review:
(25 September 1985)

Assessment Review Board
Fire Code Commission
Geoscience Research Review Commission
Health Disciplines Board
Languages of Instruction Commission of Ontario
Licence Suspension Review Board
Liquor Licence Board of Ontario
Ontario Drainage Tribunal
Selection Panel (Ontario Graduate Scholarships)
Travel Industry Compensation Fund Board of Trustees

11th Review:
(7 January 1986)

Canadian National Exhibition Association
James Bay Educational Centre
Board of Management Centre
Metropolitan Toronto Convention Centre Corporation
Board of Directors
Minaki Lodge Resort Limited and Minaki Development
Company Limited
Old Fort William Advisory Committee
Ontario Economic Council
Ontario Human Rights Commission
Ontario Stock Yards Board
Toronto Stock Exchange Board of Directors

12th Review:
(12 February 1987)

Ontario Advisory Council on Multiculturalism
and Citizenship
Ontario Arts Council
Ontario Development Corporations
Ontario Land Corporations
Ontario Lottery Corporation

13th Review:
(24 July 1987)

Agricultural Council of Ontario
Liquor Control Board of Ontario
Ontario Northland Transportation Commission
Pesticides Advisory Committee

14th Review:
(28 June 1988)

Civil Service Commission
Pension Commission of Ontario
Ontario Food Terminal Board
Ontario Securities Commission

15th Review:
(February 1989)

Advisory Council on Occupational Health and
Occupational Safety
Ontario Waste Management Corporation
St. Lawrence Parks Commission

16th Review:
(December 1989)

Ontario Environmental Assessment Advisory
Committee
Psychiatric Review Board
Royal Ontario Museum Board of Trustees
Stadium Corporation of Ontario Limited
Ontario French Language Services Commission
Rent Review Hearings Board

17th Review:
(February and March
1990)

College Relations Commission
Custody Review Board
Ontario Board of Parole
Ontario Student Assistance Program Appeal Board
Ontario Training Corporation
Apprenticeship and Tradesmen's Advisory Committees
Ontario Food Terminal Board

Dissenting Report of the Progressive Conservative Members of the
Standing Committee on Agencies Board and Commissions

The Standing Committee on Agencies, Boards and Commissions put forward three recommendations for the Ontario Training Corporation. While we agree with the thrust of the recommendations, we believe that there is insufficient evidence to show the merit of continuing this corporation.

In the first two years of operation the Corporation has spent or committed 10.8 million dollars, has earned no income (other than interest on money given to it from the Government), has developed a skills link program which appears to have an inadequate database, and is of questionable marketability. The Ontario Training Corporation presently holds five agreements to invest some 2.7 million dollars which may not produce income. After two years, no money has actually flowed under these agreements. The Ontario Training Corporation is housed in extravagant offices at considerable cost to the Ontario taxpayers (13,000 square feet for 15 employees).

The goals of the Ontario Training Corporation have not been clearly thought out by the Government. Without clear directions there can be no accountability and we see none here. The creation of the Ontario Training Corporation appears to be motivated on political considerations rather than practical or business objectives.

We recommend that the Government stop the bleeding now and abolish the Ontario Training Corporation.



Standing Committee on Government Agencies

Report on the Ontario Food Terminal Board

STANDING COMMITTEE ON
GOVERNMENT AGENCIES



COMITÉ PERMANENT DES
ORGANISMES GOUVERNEMENTAUX

LEGISLATIVE ASSEMBLY
ASSEMBLÉE LÉGISLATIVE

TORONTO, ONTARIO
M7A 1A2

The Honourable Hugh Edighoffer, M.P.P.,
Speaker of the Legislative Assembly

Sir,

Your Standing Committee on Government Agencies has the honour to present its Report on the Ontario Food Terminal Board and commends it to the House.

A handwritten signature in dark ink, appearing to read "Norman Sterling".

Norman Sterling, M.P.P.
Chair

Queen's Park
May 1990

STANDING COMMITTEE ON GOVERNMENT AGENCIES

NORMAN STERLING
Chair

MICHAEL BREAUGH

ALLAN MCLEAN

MICHAEL FARNAN

BRAD NIXON

ED FULTON

BRUCE OWEN

TARAS KOZYRA

ALAN POPE

TONY LUPUSELLA

LARRY SOUTH

HAROLD BROWN
Clerk of the Committee

DAVID POND
Research Officer

BACKGROUND

The Ontario Food Terminal Act (R.S.O. 1980, c. 334) was passed in 1946 creating the Ontario Food Terminal Board as the agency of the Ontario Government responsible for establishing a central wholesale market for fruits and vegetables. The economic and social purpose of this legislation was the need to provide one central market that would ensure a measure of order and discipline. The fact that the Government of Ontario established the market reflected a lack of interest by the private sector. The Act has not been changed since 1946. The facility was constructed and occupied in 1954.

THE POWERS OF THE BOARD UNDER SECTION 12 OF THE ACT

In order to ensure the success of this venture, section 12 of the Act gave the Board the power of approving the creation of any other wholesale market for fruit and produce. This power extends to the Municipality of Metropolitan Toronto, the Regional Municipality of York or those parts of the Regional Municipality of Peel that, on 31 December 1973, composed the County of York. Where the Board refuses to grant approval, the applicant can appeal to the Minister of Agriculture and Food whose decision is final. Under this provision, the Board has the power to create a monopoly.

RECOMMENDATIONS

The Ontario Food Terminal Board has twice been reviewed by a committee of the Legislative Assembly.

In 1979 the Standing Committee on Procedural Affairs, which at that time was charged with the responsibility of reviewing agencies, boards and commissions of the Government of Ontario, examined the operation of the Board. The Committee's conclusions were reported in its Second Report on Agencies, Boards and Commissions, tabled in the Legislative Assembly during the third session of the 31st Parliament. The Committee's principal concern centred on the Board's leasing arrangements. It pointed out that the wholesale stalls "were leased to wholesalers for, in effect, perpetuity, at a fixed rate of rent."

Further, the Report of the Committee stated that the present lessee can assign his or her lease for a "substantial sum of money, although the new lessee continues to pay the same fixed rent." This in part reflected the equity and goodwill built up by the original lessee, and the cost of equipment; but in large part the price was the result of the effective monopoly created by section 12 of the Ontario Food Terminal Act and the fixed leases. The Committee concluded that "as a result of public legislation which has effectively restricted entry to this market, the lessees, who are of course private interests, are making windfall profits." The Committee therefore recommended that section 12 of the Act be repealed.

The Ontario Food Terminal Board was reviewed again, by the Standing Committee on Government Agencies in 1988. The Committee's conclusions were reported in its Report on Agencies, Boards and Commissions (No. 14), which was tabled in the Legislative Assembly during the first session of the 34th Parliament. Representatives of the Board who appeared before the Committee contended that the claim that section 12 of the Act grants the Terminal a monopoly was not correct, or at least misunderstood. Section 12 gives the Board approval powers with respect to new wholesale markets only in York and Peel counties. Outside this area, the Board has no authority to make any recommendation or decision. Moreover, within the designated area, comprising York and Peel counties, the Board's decision is not final, rather the Minister of Agriculture and Food is given the power to make the final determination. (It is clear from the text of section 12 that the Board's jurisdiction also includes the Municipality of Metropolitan Toronto).

It was the Board's recommendation that its power under section 12 be retained, on the argument that competing wholesale markets would not be economically viable.

The Standing Committee on Government Agencies however recommended that section 12 of the Ontario Food Terminal Act be repealed, on the grounds it served no useful purpose.

The Committee also considered the composition of the Ontario Food Terminal Board, and concluded that the public interest would be served if the Board were to include members to balance the existing members who had a direct or indirect interest in the produce business and the activities of the Terminal. The Committee also considered whether there should be any appointees on the Board at all who had a direct interest in the Food Terminal.

The Committee has subsequently met to discuss the Ontario Food Terminal Board on 7 June 1989 and again on 11 April 1990. At the latter meeting the Committee determined that little progress is being made with respect to its recommendations. The Committee considers that action regarding section 12 of the Act is paramount. Accordingly, the Committee agreed that the Chair present a bill to the Legislative Assembly which would effect the repeal of section 12.

The Committee therefore recommends:

**The Legislative Assembly approve the attached bill which
repeals section 12 of the Ontario Food Terminal Act.**

An Act to amend the
Ontario Food Terminal Act

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts as
follows:

R.S.O.1980,c.334

1. Sections 12 and 13 of the Ontario Food Terminal Act are
repealed.

Commencement

2. This Act comes into force on the day it receives Royal
Assent.

Short title

3. The short title of this Act is the Ontario Food Terminal
Amendment Act, 1990.

An Act to amend the
Ontario Food Terminal Act

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts as
follows:

R.S.O.1980,c.334

1. Sections 12 and 13 of the Ontario Food Terminal Act are
repealed.

Commencement
2. This Act comes into force on the day it receives Royal
Assent.

Short title
3. The short title of this Act is the Ontario Food Terminal
Amendment Act, 1990.

Or, il considère qu'il est extrêmement important de prendre des mesures touchant l'article 12 de la loi. C'est pourquoi le comité a convenu que son président présente à l'Assemblée législative un projet de loi visant l'abrogation de l'article 12.

Le comité recommande donc ce qui suit :

L'Assemblée législative approuve le projet de loi ci-joint portant abrogation de l'article 12 de la Loi sur le Marché des produits alimentaires de l'Ontario.

monopole réel créé par l'article 12 de la Loi sur le Marché des produits alimentaires de l'Ontario et des baux à loyer fixe. Et le comité de conclure que «par suite des dispositions législatives qui ont en fait restreint la participation au marché, les locataires, qui sont, bien sûr, des intérêts privés, font des profits d'aubaine». Le comité recommandait donc l'abrogation de l'article 12 de la loi.

Le Comité permanent des organismes gouvernementaux a procédé, pour sa part, à un examen de la Commission du Marché des produits alimentaires de l'Ontario, en 1988. Les conclusions du comité sont consignées dans son Rapport sur les organismes, conseils et commissions (n° 14) déposé à l'Assemblée législative durant la première session de la 34^e Législature. Les

représentants de la Commission qui se sont présentés devant le comité ont prétendu que l'allégation que l'article 12 accorde au Marché un monopole n'est pas exacte, ou qu'elle est au moins mal comprise. L'article 12 ne donne à la Commission des pouvoirs d'autorisation en matière de nouveaux marchés de gros que dans les comtés de York et de Peel. En dehors de cette région, la Commission n'est pas habilitée à faire des recommandations ou à prendre des décisions. En outre, dans la région désignée qui comprend les comtés de York et de Peel, la décision de la Commission n'est pas sans appel, car le ministre de l'Agriculture et de l'Alimentation peut prendre la décision définitive. (Il est clair que le libellé de l'article 12 étend la compétence de la Commission à la municipalité de la communauté urbaine de Toronto).

Aussi la commission recommandait-elle le maintien des pouvoirs que lui impartit l'article 12, faisant valoir que des marchés de gros concurrents ne seraient pas économiquement viables.

Le Comité permanent des organismes gouvernementaux a toutefois recommandé l'abrogation de l'article 12 de la Loi sur le Marché des produits alimentaires de l'Ontario, pour le motif qu'il ne servait à rien.

Le comité s'est penché sur la composition de la Commission du Marché des produits alimentaires de l'Ontario et a conclu que l'intérêt général serait mieux servi si la Commission avait de nouveaux membres pour apporter un point de vue différent des membres actuels qui avaient un intérêt direct ou indirect dans le commerce des fruits et légumes et dans les activités du Marché. Le comité a également examiné s'il devait même y avoir des membres de la Commission qui aient un intérêt direct dans le Marché.

Par la suite, le comité a tenu deux réunions, le 7 juin 1989, puis le 11 avril 1990, pour débattre de la Commission du Marché des produits alimentaires de l'Ontario. À sa dernière réunion, le comité a constaté que peu de progrès avaient été réalisés en ce qui concerne ses recommandations.

HISTORIQUE

I

La Loi sur le Marché des produits alimentaires de l'Ontario (L.R.O. 1980, c. 334), adoptée en 1946, a créé la Commission du Marché des produits alimentaires de l'Ontario à titre d'organisme du gouvernement de l'Ontario chargé de constituer un marché central de gros pour les fruits et légumes. Le but socio-économique de cette loi était la nécessité de constituer un marché central qui assurerait un certain degré d'ordre et de discipline. Le fait que le gouvernement de l'Ontario constitue le marché reflétait un manque d'intérêt de la part du secteur privé. La loi n'a pas été modifiée depuis 1946. Les installations ont été construites et occupées en 1954.

POUVOIRS DE LA COMMISSION EN VERTU DE L'ARTICLE 12 DE LA LOI

Pour assurer le succès de cette entreprise, l'article 12 de la loi donne à la Commission le pouvoir d'autoriser la création de tout autre marché de gros de fruits et légumes. Ce pouvoir s'étend à la municipalité de la communauté urbaine de Toronto, à la municipalité régionale de York et aux parties de la municipalité régionale de Peel qui, le 31 décembre 1973, constituaient le comité de York. Si la Commission refuse d'accorder son autorisation, l'auteur de la demande peut en appeler au ministre de l'Agriculture et de l'Alimentation dont la décision est sans appel. En vertu de cette disposition, la Commission a le pouvoir de créer un monopole.

RECOMMANDATIONS

À deux reprises, un comité de l'Assemblée législative a examiné la Commission du Marché des produits alimentaires de l'Ontario.

En 1979, le Comité permanent des questions de procédure qui, à l'époque, était chargé d'examiner les organismes, conseils et commissions du gouvernement de l'Ontario s'est penché sur le fonctionnement de la Commission. Les conclusions du comité sont consignées dans son Deuxième rapport sur les organismes, conseils et commissions, déposé à l'Assemblée législative durant la troisième session de la 31^e Législature. Le principal souci du comité portait sur les ententes de location à bail de la Commission. Il soulignait que les stands de vente en gros «étaient loués à des grossistes, pratiquement à perpétuité, moyennant un loyer fixe».

Le rapport déclarait en outre que le locataire en place peut céder son bail «en échange d'une somme d'argent considérable, bien que le nouveau locataire continue d'acquitter le même loyer fixe». Cela tenait en partie compte de l'avoir propre et de la clientèle constituées par le premier locataire, ainsi que du coût de l'équipement, mais le prix était en grande partie le résultat du

COMITÉ PERMANENT DES ORGANISMES GOUVERNEMENTAUX

NORMAN STERLING
Président

MICHAEL BREUGH
MICHAEL FARNAN
ED FULTON
TARAS KOZYRA
TONY LUPUSSELLA

ALLAN MCLEAN
BRAD NIXON
BRUCE OWEN
ALAN POPE
LARRY SOUTH

HAROLD BROWN
Greffier du comité

DAVID POND
Rechercheur



LEGISLATIVE ASSEMBLY
ASSEMBLÉE LÉGISLATIVE

TORONTO, ONTARIO
M7A 1A2

L'honorable Hugh Edighofer,
Président de l'Assemblée législative

Monsieur,

Le comité permanent des organismes gouvernementaux a
l'honneur de présenter son rapport sur la Commission du
Marché des produits alimentaires de l'Ontario et le
confie à l'Assemblée.

Le président du comité,

Mr. - Stua

Norman Sterling

**Le rapport sur la Commission du Marché
des produits alimentaires de l'Ontario**

**Comité Permanent des
Organismes Gouvernementaux**



RAPPORT DISSIDENT DES MEMBRES PROGRESSISTES-CONSERVATEURS DU COMITE PERMANENT SUR LES ORGANISMES GOUVERNEMENTAUX

Le Comité permanent sur les organismes gouvernementaux a formulé trois recommandations à propos de la Société ontarienne de formation. Nous sommes d'accord avec l'esprit des recommandations, mais nous estimons néanmoins qu'il n'y a pas suffisamment de preuves pour justifier la continuation de cette société.

Au cours des deux premiers exercices, la société a dépensé, ou s'est engagée à dépenser, 10,8 millions de dollars; elle n'a réalisé aucun revenu (autre que l'intérêt couru sur la somme que le gouvernement lui a accordée) et elle a élaboré un programme Compétence Plus, dont la banque de données n'est pas au point et qu'il sera difficile de commercialiser. Jusqu'à présent, la Société de formation de l'Ontario a passé cinq accords relatifs à des investissements de 2,7 millions de dollars qui risquent de ne pas produire de revenu. Après deux années, ces accords n'ont généré aucun revenu. La Société de formation de l'Ontario occupe des bureaux luxueux qui coûtent des sommes exorbitantes aux contribuables de l'Ontario (13 000 pieds carrés pour 15 employés).

Le gouvernement n'a pas établi clairement les objectifs de la Société de formation de l'Ontario. Sans une telle orientation, il ne saurait y avoir d'obligation redditionnelle, et nous n'en voyons aucune. La création de la Société ontarienne de formation est attribuable d'avantage à des considérations d'ordre politique qu'à des objectifs concrets ou qui cadrent avec les besoins du monde des affaires.

Nous recommandons que le gouvernement arrête les frais dès maintenant et abolisse la Société de formation de l'Ontario.

Douzième examen : (12 février 1987)	Conseil consultatif des relations civiques et multiculturelles de l'Ontario Conseil des Arts de l'Ontario Société de développement de l'Ontario Société foncière de l'Ontario Société des loteries de l'Ontario
Treizième examen : (24 juillet 1987)	Conseil agricole de l'Ontario Régie des alcools de l'Ontario Commission de transport Ontario Northland Comité consultatif sur les pesticides
Quatorzième examen : (28 juin 1988)	Commission de la fonction publique Commission des régimes de retraite de l'Ontario Commission du Marché des produits alimentaires de l'Ontario Commission des valeurs mobilières de l'Ontario
Quinzième examen : (Février 1989)	Conseil consultatif sur la santé et la sécurité au travail Société ontarienne de gestion des déchets Commission des parcs du Saint-Laurent
Seizième examen : (Décembre 1989)	Comité consultatif des évaluations environnementales de l'Ontario Psychiatric Review Board Conseil d'administration du Musée royal de l'Ontario Stadium Corporation of Ontario Limited Commission des services en français de l'Ontario Commission de révision des loyers
Dix-septième examen : (Février et mars 1990)	Commission des relations du travail dans les collèges Commission de révision des placements sous garde Commission ontarienne des libérations conditionnelles Commission d'appel du régime d'aide financière de l'Ontario Société ontarienne de formation Comité consultatif en matière d'apprentissage et de qualification professionnelle des gens de métier Commission du Marché des produits alimentaires de l'Ontario

Commission d'indemnisation des victimes d'actes criminels	Septième examen :
Société du barreau du Haut-Canada	(15 décembre 1983)
Fondation ontarienne pour la recherche en cancérologie et le traitement du cancer	
Commission ontarienne de la main-d'oeuvre	
Conseil ontarien du statut de la femme	
Fondation de recherche sur l'alcoolisme et la toxicomanie	Huitième examen :
Régie des services de pompes funèbres	(21 juin 1984)
Commission ontarienne des libérations conditionnelles	
Board of Visitors of Homewood Sanitarium, Guelph	
Commission ontarienne de l'assurance-récolte	
Commission des recours en matière de chasse et de pêche	
Société IDEA	
Commission de révision des maisons de soins infirmiers	
Commission de révision de l'aide sociale	
Commission d'étude des soins aux animaux	Neuvième examen :
Commission d'étude des services à l'enfance	(19 novembre 1984)
Commission des parcs du Niagara	
Commission du pont de Niagara Falls	
Société internationale de l'Ontario	
Société de prêts aux jeunes agriculteurs de l'Ontario	
Commission de révision de l'évaluation foncière	Dixième examen :
Commission du code des incendies	(25 septembre 1985)
Comité d'étude de la recherche géoscientifique	
Conseil des sciences de la santé	
Commission des langues d'enseignement de l'Ontario	
Commission d'appel des suspensions de permis	
Commission des permis de vente d'alcool de l'Ontario	
Commission de drainage de l'Ontario	
Comité de sélection (Bourses d'études supérieures de l'Ontario)	
Travel Industry Compensation Fund Board of Trustees	
Exposition nationale canadienne	Onzième examen :
James Bay Educational Centre	(7 janvier 1986)
Board of Management Centre	
Conseil d'administration du Palais des congrès du Toronto	
métropolitain	
Minaki Lodge Resort Limited and Minaki Development Company Limited	
Comité consultatif du Vieux Fort William	
Conseil économique de l'Ontario	
Commission ontarienne des droits de la personne	
Commission ontarienne des parcs à bestiaux	
Conseil d'administration de la Bourse de Toronto	

Organismes, conseils et commissions examinés jusqu'à présent

Premier examen : (9 novembre 1978)	Conseil consultatif sur la gestion des déchets Comité consultatif sur les pesticides Ontario Food Council Institut de recherche agricole Fondation de recherche sur l'alcoolisme et la toxicomanie Institut d'études pédagogiques de l'Ontario Commission des relations de travail en éducation Commission des machines agricoles Office d'indemnisation foncière de l'Ontario Commission du lait de l'Ontario Commission ontarienne de commercialisation de la crème Commission des parcs du Saint-Laurent Conseil des Arts de l'Ontario Fondation du patrimoine ontarien
Deuxième examen : (3 décembre 1979)	Fondation de recherches de l'Ontario Commission ontarienne des services téléphoniques Société de logement de l'Ontario Commission du Marché des produits alimentaires de l'Ontario Conseil ontarien de la santé Commission des affaires municipales de l'Ontario Office de la télécommunication éducative de l'Ontario Société des loteries de l'Ontario Bureau des opticiens d'ordonnances Commission des relations de travail de l'Ontario Commission de transport Ontario Northland Régie des alcools de l'Ontario
Quatrième examen : (19 novembre 1981)	Commission des courses de l'Ontario Ontario Hockey Development Committee Comité consultatif sur la pollution agricole Société d'exploitation de la Place Ontario
Cinquième examen : (11 mai 1982)	Commission de contrôle cinématographique de l'Ontario Commission de l'énergie de l'Ontario Commission de police de l'Ontario Régie des transports en commun de la région de Toronto
Sixième examen : (7 décembre 1982)	Musée des beaux-arts de l'Ontario Commission de la fonction publique Commission sur les contributions et les dépenses électorales Société d'hypothèques de l'Ontario Commission d'évaluation des dommages causés par les loups

Mercrèdi, 7 mars 1990

Objet : Comité consultatif en matière
d'apprentissage et de qualification
professionnelle des gens de métier

11 h

Représentant le Comité consultatif en matière
d'apprentissage et de qualification professionnelle
des gens de métier :

Peter Landry

Directeur

Direction de l'apprentissage

Ministère de la Formation professionnelle

George Fell

Coordonnateur des programmes

Direction de l'apprentissage

Objet : Commission des relations de travail dans
les collèges

Jeudi, 8 mars 1990

10 h

Professeur Jeffrey Gandz
Faculté d'administration des affaires
Université Western Ontario

Bob MacBean
Vice-président - Fonds d'investissement

Barbara Zuppienger
Vice-présidente - Services de formation

Anne Kerr
Vice-présidente - Finances et administration

Sandra Birkenmayer
Chef de la direction

David Lewis
Président

Représentant la Société ontarienne de formation :

Objet : Société ontarienne de formation

Jo-Anne Kusznier
Directrice des appels
Direction de l'aide financière aux étudiants
Ministère des Collèges et Universités

Jan Donio
Directrice
Direction de l'aide financière aux étudiants
Ministère des Collèges et Universités

Objet : Commission d'appel du régime d'aide financière aux étudiants de l'Ontario :

Représentant la Commission d'appel du régime d'aide financière aux étudiants de l'Ontario :

Objet : Commission d'appel du régime d'aide financière aux étudiants de l'Ontario

Marian McGuire
Conseillère principale aux politiques

Beverly Wilkinson
Membre de la Commission

Murray Chitra
Directeur des services juridiques
Ministère des Services correctionnels

Ken Sandhu
Vice-président général

Sheila Henriksen
Présidente

Représentant la Commission ontarienne des libérations conditionnelles :

Objet : Commission ontarienne des libérations conditionnelles

Lundi, 5 mars 1990

15 h

Lundi, 26 février 1990

15 h 30

11 h et 13 h

Jeudi, 22 février 1990

COMITE PERMANENT DES ORGANISMES GOUVERNEMENTAUX

Programme des audiences et liste des témoins

Lundi, 19 février 1990

Objet : Commission des relations de travail dans les collèges

Représentant la Commission des relations de travail dans les collèges :

Katherine Swinton
Présidente

David Hayes
Vice-président

Robert Saunders
Chef de la direction

Ed Aim
Directeur des services régionaux

Sharon McElroy
Directrice des services d'information

Objet : Commission de révision des placements sous garde

11 h et 14 h

Représentant la Commission de révision des placements sous garde :

Lorraine Watson
Présidente

Keith Quigg
Membre de la Commission

Murielle Labrie
Coordonnatrice
Commission de révision des placements sous garde
Ministère des Services sociaux et communautaires

Anne Sheffield
Ministère des Services sociaux et communautaires

Jane Rogers
Ministère des Services sociaux et communautaires

Nancy Lunney
Ministère des Services sociaux et communautaires

Comité permanent des organismes gouvernementaux, doté du pouvoir d'examiner et de publier les observations, opinions et recommandations à la Chambre sur le fonctionnement de tous les organismes, conseils et commissions à propos desquels le lieutenant-gouverneur en conseil effectue plusieurs ou toutes les nominations, ainsi que toutes les sociétés de la Couronne dont la Couronne du chef de l'Ontario constitue un actionnaire majoritaire; ces examens ayant pour but de réduire les doubles emplois, d'améliorer l'obligation redditionnelle des organismes, de rationaliser les fonctions des organismes, d'identifier les organismes ou services d'organismes pouvant faire l'objet d'un examen et d'examiner le mandat et le rôle des organismes.

COMITÉ PERMANENT DES ORGANISMES GOUVERNEMENTAUX
Mandat
Règlement 90 g)

13. La Commission d'appel du régime d'aide financière aux étudiants de l'Ontario examine ses procédures de vérification et songe à mettre en oeuvre un mécanisme de vérification avant de déboursier des fonds.
14. Le comité s'inquiète du manque de participation du mouvement du travail. La Société de formation de l'Ontario devrait immédiatement examiner son mandat en consultant la Fédération du travail de l'Ontario et le ministre de la Formation professionnelle.
15. Le ministre de la Formation professionnelle surveille de près la Société de formation de l'Ontario et lui demande de témoigner à nouveau devant le comité dans un an.
16. La Société de formation de l'Ontario s'efforce d'assurer la mise à jour de sa base de données Compétences Plus et la rende aussi exhaustive que possible. Il faudrait présenter les renseignements sous un format pratique et facile à appliquer.
17. Le ministre de la Formation professionnelle met le fin au processus de revitalisation.
18. Lorsque des représentants d'un métier désirent se consulter et s'adresser au ministre, celui-ci détermine s'il est nécessaire de convoquer une réunion. C'est au ministre qu'il incombe d'organiser des réunions de comité consultatif ad hoc et de veiller à inviter tous les intéressés.
19. Les comités consultatifs provinciaux relèvent directement du ministre et non des fonctionnaires de la Direction de l'apprentissage.

SOMMAIRE DES RECOMMANDATIONS

Le comité recommande que :

1. Le ministère des Collèges et Universités publie le plus vite possible une réponse au rapport de la Commission Gandz.
2. La Commission des relations de travail dans les collèges élabore des critères par écrit à appliquer pour aviser le ministre que la grève compromet la réussite des étudiants. Ces critères devraient exiger que la Commission tienne compte de tous les renseignements disponibles sur les effets des grèves antérieures sur le taux d'abandon des étudiants.
3. La Commission des relations de travail dans les collèges s'efforce à tout prix de recueillir des renseignements à jour sur les questions en cause, surtout en matière d'affectations et de charge de travail des enseignants et de diffuser ces renseignements aux parties. La Commission devrait charger un employé de cette responsabilité.
4. Si la négociation collective continue à se faire au niveau provincial, il faudrait encourager fortement la négociation locale à l'intérieur de ce cadre provincial.
5. La Commission de révision des placements sous garde soit abolie.
6. Le ministère procède à un examen complet de la question de l'enregistrement des audiences de libération conditionnelle avant d'accorder ce pouvoir à la Commission ontarienne des libérations conditionnelles.
7. Le ministère des Services correctionnels effectue un examen du système des libérations conditionnelles, plus particulièrement en ce qui a trait au nombre de cas par agent, au salaire de ces derniers, à leurs conditions de travail et à leur supervision.
8. La Commission ontarienne des libérations conditionnelles recueille des données statistiques sur les personnes en liberté conditionnelle et utilise ces renseignements pour évaluer ses procédures et le bien-fondé de ses décisions.
9. Les victimes d'infractions criminelles graves aient la possibilité de s'adresser aux panels de la Commission ontarienne des libérations conditionnelles avant que ces derniers décident d'accorder des libérations conditionnelles.
10. Le ministère des Services correctionnels examine le fonctionnement des programmes de services correctionnels afin de garantir une meilleure circulation des renseignements, d'une part, entre les tribunaux et la police et, d'autre part, entre les pouvoirs correctionnels et de libération conditionnelle.
11. Le ministère des Collèges et Universités surveille de près le nombre de cas soumis à la Commission d'appel du régime d'aide financière aux étudiants de l'Ontario après l'adoption des nouveaux critères en 1991. Si le nombre de cas ne diminue pas comme prévu, le ministre pourra procéder à un examen du mandat de la Commission.
12. La documentation relative au Régime d'aide financière aux étudiants de l'Ontario distribuée aux étudiants passe une plus grande place à la Commission d'appel du régime d'aide financière aux étudiants de l'Ontario. Ces textes devraient souligner les critères que la Commission d'appel utilise pour attribuer des fonds lors de l'appel.

Le comité estime que l'on peut atteindre les buts de la politique sous-jacente à la structure des CCP par des réunions ad hoc sous les auspices du ministère chaque fois que l'on en éprouve le besoin.

Par conséquent, le comité recommande que :

18. Lorsque des représentants d'un métier désirent se consulter et s'adresser au ministre, celui-ci détermine s'il est nécessaire de convoquer une réunion. C'est au ministre qu'il incombe d'organiser des réunions de comité consultatif ad hoc et de veiller à inviter tous les intéressés.

Certains membres déploreraient le fait que les CCP n'adressent pas leurs recommandations directement au ministre, mais à la Direction de l'apprentissage. Les témoins ont signalé que cette politique faisait actuellement l'objet d'un examen.

Par conséquent, le comité recommande que :

19. Les comités consultatifs provinciaux relèvent directement du ministre et non des fonctionnaires de la Direction de l'apprentissage.

- les CCP pourraient bénéficier d'une représentation plus large des intervenants clés du système d'apprentissage;
- bien que certains membres aient renoncé à leur indemnité journalière de 50 \$, il faut réexaminer le taux de rémunération actuel qui ne semble pas correspondre à la valeur que le ministère prétend accorder à l'apprentissage et à la spécialisation des membres; ce tarif risque également de limiter les chances de recrutement;
- la procédure actuelle de nomination ne semble guère efficace puisque certains comités sont présentement inactifs en raison de la pénurie de membres.

Selon l'examen, voici les principales mesures à prendre par le ministère de la Formation professionnelle en vue de revitaliser les CCP :

- adopter une stratégie de consultation intégrale avec les membres des CCP actuels au sujet de leur rôle et de leurs responsabilités;
- explorer d'autres modèles que le modèle actuel de 39 CCP axés sur des métiers particuliers;
- consulter les CCP pour s'assurer qu'ils représentent bien tous les organes constitutifs pertinents; et
- exiger que les CCP publient un rapport annuel.

Le Conseil de gestion du gouvernement et le ministère de la Formation professionnelle ont accepté les recommandations de l'examen et ont accepté de revitaliser les CCP.

Les témoins de la Direction de l'apprentissage du ministère de la Formation professionnelle ont reconnu que les comités consultatifs provinciaux (CCP) n'avaient guère été actifs en 1989. Ils savent que le processus de revitalisation qui s'est esquisse n'a pas abouti comme la direction l'espérait. Les membres s'inquiétaient du fait que, parmi les 39 CCP qui existent officiellement, 5 seulement étaient réellement actifs.

Certains membres ont mis en doute l'utilité du système des CCP. Une consultation régulière s'effectue de façon automatique à plusieurs niveaux entre l'industrie, les syndicats et la province. Le comité estime que le fait que cinq seulement des CCP fonctionnent montre bien l'inutilité d'une structure consultative permanente officielle.

Par conséquent, le comité recommande que :

17. Le ministre de la Formation professionnelle mette fin au processus de revitalisation.

Tous les membres des CCP sont remboursés de leurs frais de déplacement, de subsistance et frais engagés dans l'exercice de leurs fonctions et ils touchent une indemnité journalière de 50 \$ pour chaque jour ouvrable. Les CCP ne disposent pas d'un budget indépendant. Tous les frais de fonctionnement et les frais engagés par les membres sont imputés au budget de la Direction de l'apprentissage du ministère de la Formation professionnelle. Les dépenses sont approuvées par le chef de service de l'unité de la normalisation des programmes de la Direction de l'apprentissage.

Le tableau suivant indique le total des dépenses de CCP des trois dernières années :

1986-1987 :	51 700 \$
1987-1988 :	33 000 \$
1988-1989 :	32 900 \$

Obligation redditionnelle et contrôle

Les CCP relèvent du ministère par le truchement du directeur de l'apprentissage. Un examen global des CCP a été soumis au Conseil de gestion du gouvernement le 15 novembre 1988. Par la suite, le Conseil de gestion a décidé de reconduire les CCP jusqu'en 1993.

Recommandations

Selon les responsables du ministère, nombre de CCP sont inactifs depuis plusieurs années. L'examen a révélé des points forts et des points faibles dans le système des CCP, et on a proposé un programme conçu pour revitaliser leur action. Le Conseil de gestion a accepté les recommandations de l'examen.

L'examen a révélé les lacunes suivantes dans le système actuel des CCP :

- le mandat des CCP est un peu étroit compte tenu des défis de taille auxquels font face les métiers spécialisés de nos jours;
- il faut améliorer les mécanismes de reddition de compte et introduire des critères de mesure efficaces;
- si le modèle actuel de 39 comités distincts liés aux métiers répond à leurs besoins particuliers, il ne semble pas favoriser le dialogue sur des questions qui dépassent le cadre d'un métier particulier, comme la polyvalence, les ratios, les questions de sécurité, les problèmes de financement et les difficultés d'accès, etc.;

On encourage chaque CCP à inviter des représentants des collèges d'arts appliqués et de technologie, des groupes communautaires féminins, des associations d'enseignants de matières techniques, des associations professionnelles et syndicales à part entière à titre de personnes-ressources. Ces membres sont considérés comme membres à part entière à titre de conseillers sans toutefois avoir le droit de vote.

Fonctionnement

Les CCP conseillent le ministre sur les questions suivantes :

- normes de qualification pour les métiers;
- besoins actuels et projetés de main-d'oeuvre spécialisée;
- critères de qualification (par exemple, âge et niveau d'instruction) pour être admissible aux programmes de formation des apprentis;
- durée et teneur des programmes de formation des apprentis;
- programme d'études des cours de formation d'apprentis;
- impact de la nouvelle technologie; et
- taux de rémunération appropriée pour les apprentis et nombre d'apprentis par ouvrier.

Ces conseils aident le ministre à :

- établir des priorités pour favoriser le développement des nouveaux métiers;
- élaborer des mesures pour répondre aux besoins critiques du marché du travail; et
- établir un ordre de priorité dans l'attribution des ressources de la manière la plus efficace pour pourvoir aux besoins du marché du travail et lui permettre de s'adapter aux nouvelles technologies et aux autres forces qui s'exercent sur le marché.

Chaque CCP est censé recommander au ministre de la Formation professionnelle toute modification qu'il juge nécessaire d'apporter aux lois qui régissent les métiers desservis et examiner toutes les modifications ébauchées par le ministre.

Les recommandations proposées par un CCP doivent être appuyées par une majorité de ses membres. Le président du CCP est chargé de soumettre sa recommandation au directeur de l'apprentissage au ministre. Dans les trois mois qui suivent la soumission, le ministre informe le président du CCP par lettre de la décision à prendre.

Le tableau qui suit indique le nombre total de personnes désignées par le gouvernement pour siéger aux CCP au cours des trois dernières années :

1986-1987 : 172
1987-1988 : 183
1988-1989 : 51

Le ministère de la Formation professionnelle fournit le personnel de soutien des CCP. En 1988-1989, 10 fonctionnaires du ministère ont été affectés aux CCP.

On demande aux organisations de l'industrie, associations d'entrepreneurs, syndicats, groupes communautaires qui se soucient de la formation professionnelle de groupes sous-représentés dans les métiers non traditionnels, collèges communautaires et associations d'enseignants de matières techniques, parmi d'autres, de nommer des personnes susceptibles de siéger à un CCP.

Le ministre sélectionne les candidats en vue de réunir un groupe de personnes qualifiées capables de représenter un large éventail de groupes constitutifs. Les nominations ministérielles se fondent sur les critères suivants :

- la capacité de fournir des conseils de qualité sur diverses questions du domaine de la formation;
- la capacité de fournir un avis technique expert sur un métier spécialisé ou un groupe de métiers;
- la capacité de comprendre les questions sous-jacentes à la formation qui dépassent le cadre d'un métier particulier, par exemple des questions qui influent sur l'ensemble d'un secteur de métiers ou sur l'ensemble de la main-d'oeuvre active spécialisée;
- un engagement évident en faveur d'une formation de qualité;
- la disponibilité et la volonté de consacrer du temps aux travaux du comité;
- le statut d'employeur, d'employé ou d'apprenti;
- le lieu géographique;
- la taille ou le type d'entreprise;
- le statut de syndiqué ou de non-syndiqué; et
- la capacité de représenter les intérêts de groupes ciblés comme les femmes.

Comité consultatif provincial pour le
métier de

Métiers réglementés

Tôlier	•	---
Maçon (brique et pierre)	•	Finisseur de béton
Mécanicien-monteur	•	---
Mécanicien d'entretiens (mécanicien-monteur)	•	---
Horticulture	•	Horticulteur pépiniériste
	•	- horticulteur en serre
	•	Horticulteur paysagiste
		- entretien des pelouses
Ajusteur (charpentier en acier de construction)	•	---
Electricien industriel	•	---
Mécanicien de machines à emballer	•	---
Ébéniste/affûteur d'outils de machines à bois	•	---
Monteur de moteurs à combustion interne	•	Mécanicien de prototypes de moteur hors-bord
	•	Matériel de moteurs hors-bord
	•	Mécanicien de prototypes de moteur hors-bord
		Construction
		- ajusteur-monteur de moteurs hors-bord
Mécanicien d'instrumentation	•	---
Mécanicien de camions/autobus	•	---
Conducteur d'appareils de traitement chimique en discontinu	•	---
Conducteur de chariot élévateur	•	---
Machiniste automatique	•	---
Conducteur d'engin de levage	•	Conducteur de grue sur camion
	•	Conducteur de grue à tour
Soudage	•	---
Perfectionnement professionnel	•	---

Le tableau qui suit indique le nombre total de réunions de tous les CCP au cours des trois dernières années.

1986-1987 : 30
1987-1988 : 24
1988-1989 : 23

**Comité consultatif provincial
pour le métier de**

Métiers réglementés

Charpentier - général	•	---
Poseur de vitres et monteur en constructions métalliques	•	---
Poseur-réparateur de câbles	•	•
Plombier et tuyauteur, conduites de vapeur	•	•
Plombier	•	•
Tuyauteur, conduites de vapeur	•	•
Mécanicien d'installations de réfrigération et de climatisation	•	---
Monteur d'installations de protection incendie	•	---
Calorifugeur de chaudières et tuyaux	•	---
Mécanicien d'automobiles	•	•
Mécanicien d'automobiles	•	•
- installateur de systèmes électriques	•	•
Mécanicien de transmission	•	•
- ajusteur-régleur d'avant-train et monteur de freins d'automobile	•	•
Mécanicien de machines agricoles	•	---
Usineur de pièces de moteur d'automobile	•	---
Mécanicien de machinerie lourde	•	---
Réparateur de motocyclettes	•	---
Réparateur et peintre de carrosseries	•	•
Carrossier	•	•
Peintre	•	•
Machiniste - général	•	•
Outilleur-ajusteur	•	•
Mouliste	•	•
Boulangier	•	•
Aide-boulangier	•	•
Pâtissier	•	•
Cuisinier	•	•
Aide-cuisinier	•	•
Coiffure	•	•
Coiffeur pour hommes	•	•
Coiffeuse	•	•
Réparateur de radios et de téléviseurs	•	---

COMITÉS CONSULTATIFS PROVINCIAUX SUR L'APPRENTISSAGE
ET LA QUALIFICATION PROFESSIONNELLE DES GENS DE MÉTIER

En vertu de l'article 3 (1) de la Loi sur l'apprentissage et la qualification professionnelle des gens de métiers (L.R.O. 1980, chap. 24, modifié par S.O. 1986, chap. 64), le ministre de la Formation professionnelle peut nommer des comités consultatifs provinciaux (CCP) «... afin de le conseiller en matière de mise sur pied et de gestion de programmes de formation des apprentis et de qualification professionnelle des gens de métier». À l'heure actuelle, il existe 39 CCP distincts, chargés de conseiller le ministre sur des questions se rapportant à 66 métiers en Ontario. En vertu de l'article 3 (2) de la loi, chaque CCP se compose d'au moins cinq membres, dont un nombre égal de représentants des employeurs et des employés ainsi qu'un fonctionnaire du ministère de la Formation professionnelle.

Les membres des CCP ont des connaissances poussées dans un métier particulier et fournissent au ministre des renseignements à jour et des conseils sur les questions et les tendances en matière de besoins d'apprentissage dans ce métier. Ils ont pour but de veiller à ce que les programmes de formation des apprentis de l'Ontario restent à jour et pertinents.

Structure et organisation des CCP

Les CCP actifs se composent habituellement de 10 à 12 membres. La présidence du CCP change chaque année et revient alternativement à un représentant des employeurs et à un représentant des employés. Le fonctionnaire du ministère chargé de siéger à chaque CCP exerce les fonctions de secrétaire du comité, de personne-ressource et il assure la liaison avec le ministère. Cette personne n'a pas le droit de vote. On encourage chaque CCP à désigner un apprenti inscrit comme représentant des employés. Les membres du CCP sont investis d'un mandat de un, deux ou trois ans à l'expiration duquel ils ne peuvent être nommés de nouveau pendant au moins deux ans.

Voici la liste des CCP officiels qui existent et les métiers réglementés dont ils sont responsables.

Comité consultatif provincial
pour le métier de

Peintre et décorateur

- Peintre et décorateur - commercial et résidentiel
- Peintre et décorateur - industriel

Electricien

- Electricien du bâtiment - entretien et réparation
- Electricien d'appareils ménagers et agricoles

Métiers réglementés

Par conséquent, le comité recommande que :

15. Le ministère de la Formation professionnelle surveille de près la Société de formation de l'Ontario et lui demande de témoigner à nouveau devant le comité dans un an.

Le comité estime que le ministre devrait songer à modifier le protocole d'entente de la SOF pour préciser son mandat. Il serait bon de reconstituer la Société, soit comme une exploitation commerciale qui est censée réaliser un bénéfice, soit comme un organisme gouvernemental de prestation de services.

Les témoins ont reconnu que la base de données de Compétences Plus ne comportait pas la liste intégrale des cours de formation et du matériel offerts par le mouvement syndical et par le gouvernement de l'Ontario. Le comité juge qu'il s'agit là de lacunes graves.

Par conséquent, le comité recommande que :

16. La Société de formation de l'Ontario s'efforce d'assurer la mise à jour de sa base de données Compétences Plus et la rende aussi exhaustive que possible. Il faudrait présenter les renseignements sous un format pratique et facile à appliquer.

Ontario désirent et peuvent absorber des millions de dollars de capital-risque pour élaborer de nouveaux produits et techniques de formation. Le résultat des études de marché en cours et le fruit de l'expérience nous permettront de juger de la validité de ces hypothèses et, par conséquent, de la viabilité des programmes.

Dans son plan stratégique initial, les projections initiales de revenus de la SOF reposaient sur l'hypothèse qu'elle toucherait une subvention annuelle de 6,8 millions de dollars du ministère de la Formation professionnelle (indexée chaque année pour l'inflation) jusqu'à la fin de l'exercice 1992-1993. Or, dans son dernier plan, la SOF reconnaît qu'une subvention de 6,8 millions de dollars ne suffira pas à couvrir les frais de fonctionnement de la Société en 1990-1991. Elle attribue la cause de sa projection erronée aux raisons suivantes :

- l'inflation;
- l'évaluation trop faible des frais de mise en route et de fonctionnement;
- les exigences de la Loi sur les services en français; et
- l'imposition de nouvelles taxes, par exemple, sur les charges salariales et les locaux.

La SOF envisage de dépenser quelque 8,5 millions de dollars en 1990-1991. Elle sollicitera une subvention de 7,2 millions de dollars du ministère pour l'exercice 1990-1991, soit une augmentation de 6 pour 100 par rapport à sa subvention de 6,8 millions de dollars pour 1989-1990. La hausse de 6 pour 100 permettrait d'éponger la hausse attribuable à l'inflation. Mais il lui manquera encore 1,3 million de dollars.

Le comité a interrogé les témoins à propos de ces chiffres. Ils ont reconnu qu'à l'heure actuelle (mars 1990), la SOF n'était pas sûre d'atteindre ses objectifs financiers.

Le comité reconnaît qu'il y a à peine plus d'un an que la SOF fonctionne et qu'il est trop tôt pour juger de la viabilité de ses entreprises. Cependant, le fonctionnement de la Société inquiète le comité.

Recommandations

Les témoins de la SOF ont reconnu que les trois représentants du monde syndical qui siègent au conseil d'administration (MM. Dick Barry, John Bettes et Herman Stewart) ont refusé d'assister aux réunions du conseil depuis trois mois. Ils ont laissé entendre que les objections des représentants du monde du travail se rapportent davantage à la stratégie de formation professionnelle globale du gouvernement qu'à la Société comme telle.

M. David Lewis, président du conseil d'administration de la Société, a suggéré que les représentants du monde syndical estimaient que la formation professionnelle relevait du secteur public étant donné qu'on ne pouvait pas se fier à l'action volontaire du secteur privé dans ce domaine.

Par la suite, le comité a entendu le témoignage de certains représentants du monde syndical, ainsi que de M. Jim Turk, ancien représentant du monde du travail, qui est maintenant directeur de l'éducation à la Fédération du travail de l'Ontario. Ils ont indiqué que la Fédération du travail de l'Ontario leur avait enjoint de cesser d'assister aux réunions du conseil d'administration parce que la Fédération n'était pas d'accord avec l'orientation commerciale de la Société et parce que les entreprises de la Société concurrençaient les programmes sans but lucratif offerts par les syndicats et les collèges communautaires.

Par conséquent, le comité recommande que :

14. Le comité s'inquiète du manque de participation du mouvement du travail. La Société de formation de l'Ontario devrait immédiatement examiner son mandat en consultant la Fédération du travail de l'Ontario et le ministre de la Formation professionnelle.

Dans son plan stratégique et son protocole d'entente, la SOF s'est engagée à générer suffisamment de revenus avant la fin de l'exercice 1992-1993 pour couvrir les frais de fonctionnement et d'administration de ses trois entreprises. Dans le plan, la SOF reconnaît que ce but est optimiste et qu'il repose sur un ensemble d'hypothèses énoncées ci-après :

Le programme Compétences Plus présuppose qu'un large éventail d'entreprises de toute taille et de tout type sont prêtes à payer un prix raisonnable pour accéder à une base de données sur la formation. Le programme des investissements présuppose que ceux qui élaborent des programmes de formation en

- a) communiquer au conseil d'administration les politiques de la province qui s'appliquent à la Société;
 - b) sous réserve de l'approbation préalable du Conseil des ministres de l'Ontario, élire tous les membres du conseil d'administration de la Société et en désigner un pour exercer les fonctions de président du conseil d'administration de la Société;
 - c) approuver les pouvoirs et les obligations du président du conseil d'administration de la Société;
 - d) approuver la nomination du chef de la direction et du président par le conseil d'administration et approuver les pouvoirs et les obligations du chef de la direction et du président;
 - e) recevoir le rapport annuel et les états financiers vérifiés de la Société et déposer le rapport et les états financiers devant l'assemblée législative si elle siège, ou au cours de la séance suivante si elle ne siège pas;
 - f) recevoir, examiner et approuver ou rejeter le budget annuel et le plan général multi-annuel soumis par le conseil d'administration;
 - g) fournir des conseils au conseil d'administration et, le cas échéant, le diriger selon l'avis du ministre en matière de mise en oeuvre des objectifs de la Société;
 - h) obtenir l'autorisation gouvernementale voulue pour permettre à la Société d'exécuter son mandat, notamment obtenir l'autorisation préalable des subventions de la province pour la Société et l'approbation préalable du trésorier de l'Ontario, le cas échéant, pour les dispositions financières;
 - i) confirmer ou rejeter les statuts et approuver ou rejeter les directives de politique d'investissement de la Société, telles que dictées, modifiées ou abrogées par le conseil d'administration;
 - j) nommer le vérificateur de la Société;
 - k) s'en remettre aux conseils du conseil d'administration, en lieu et temps voulus, en ce qui concerne les politiques, la planification et les affaires de la Société.
- Le ministre de la Formation professionnelle a nommé le vérificateur provincial comme vérificateur externe de la SOF. Il incombe au conseil d'administration, par le truchement de son comité de la vérification, de veiller à ce que la direction s'acquitte de ses responsabilités en matière de communication de l'information financière et de contrôles internes. Le comité de la vérification se réunit régulièrement avec la direction et périodiquement avec le vérificateur externe. Le vérificateur externe a accès direct au comité de la vérification et au conseil d'administration, en présence ou en l'absence de la direction, pour discuter de la vérification et de ses constatations.

Le tableau suivant indique les dépenses pour l'année 1989-1990.

Frais pour la période de 9 mois se terminant au 31 décembre 1989

Salaires et avantages sociaux	1 251 000 \$
Déplacement et communications	75 000 \$
Services	750 000 \$
Fournitures et matériel	76 000 \$
	<u>2 152 000 \$</u>

Immobilisations :	
Mobilier et accessoires	34 000 \$
Ordinateurs	85 000 \$
Logiciel pour la base de données sur la formation	105 000 \$
Téléphone et matériel de bureau	102 000 \$
	<u>326 000 \$</u>

TOTAL

2 478 000 \$

Les membres du conseil d'administration touchent une indemnité journalière de 175 \$ et le président de 300 \$ lorsqu'ils s'occupent des affaires du conseil d'administration. Les membres du conseil sont remboursés pour leurs frais de déplacement et de subsistance engagés dans l'exercice de leurs fonctions.

Le protocole d'entente que la SOF a conclu avec le ministère de la Formation professionnelle exige que la Société tire un revenu de l'exploitation de ses trois entreprises. Elle doit réinvestir tout produit dans les affaires de la SOF. Selon le plan stratégique de 1990-1993 de la SOF, celle-ci devrait commencer à réaliser un bénéfice en 1991-1992. La SOF s'est engagée à générer suffisamment de revenus pour au moins couvrir tous ses frais d'administration et de fonctionnement à partir de la fin de l'exercice 1992-1993.

Obligation redditionnelle et contrôle

La SOF a été désignée organisme visé à l'annexe II en vertu de l'autorité de la directive 6-2-2 du Conseil de gestion du gouvernement. Le ministre de la Formation professionnelle et le président du conseil d'administration de la SOF ont signé un protocole d'entente en avril 1989.

En tant que seul actionnaire de la SOF, le ministre de la Formation professionnelle (ou son délégué, le sous-ministre de la Formation professionnelle) assume les responsabilités suivantes :

entreprises de l'Ontario qui traitent de sujets comme la formation professionnelle et technique, le perfectionnement des employés qui exercent une profession libérale, des fonctions de supervision et d'encadrement. Le Fonds pour techniques de formation investit dans de nouveaux outils et techniques servant à élaborer et à mettre en oeuvre des programmes de formation efficaces en milieu de travail.

Finances

La SOF est financée par une subvention de fonctionnement annuelle provenant du ministère de la Formation professionnelle. Celui-ci accorde les fonds en fonction du plan stratégique de trois ans de la SOF, qui est mis à jour chaque année et soumis à l'approbation et à la discussion du ministre en septembre.

En 1988-1989, la subvention de fonctionnement s'élevait à 4 millions de dollars. Voici la répartition de cette somme :

Acquisition de biens d'immobilisation
Fonds de roulement
Frais de mise en route
Financement reporté pour 1989-1990*

\$ 1 239 000
\$ 1 208 000
\$ 630 000
\$ 923 000
<u>\$ 4 000 000</u>

* Les fonds qui ne sont pas dépensés durant l'année où ils sont attribués font l'objet d'un report.

Pour l'année 1989-1990, la subvention approuvée s'élève à 6,8 millions de dollars.

Les frais ont totalisé près de 3 millions de dollars en 1988-1989. Voici la répartition des

frais par poste :

Salaires et avantages sociaux
Déplacements et communications
Services
Fournitures et matériel

Immobilisations :

Mobilier et accessoires
Ordinateurs
Logiciel pour la base de données sur la formation
Téléphone et matériel de bureau

\$ 3 077 000

L'année 1988-1989 constituait le premier exercice de la SOF. En cours d'année, la Société a aménagé des locaux et mis en place l'infrastructure administrative et financière, ainsi qu'une équipe de hauts dirigeants et autres membres clés du personnel et s'est assurée de l'activité du conseil d'administration et de ses comités. En juillet 1988, la Société s'était dotée d'un plan d'exploitation pour l'année 1988-1989 et, en novembre 1988, le conseil d'administration avait approuvé un plan stratégique pour 1989-1990 jusqu'à 1991-1992. Depuis, le conseil d'administration a approuvé un plan stratégique révisé pour 1990-1991 à 1992-1993.

La SOF s'efforce de remplir son mandat qui est de favoriser la formation de qualité en milieu de travail grâce à l'exploitation de trois entreprises.

1. Compétences Plus : Compétences Plus a pour objectif de rendre la formation plus accessible aux employeurs et à leur personnel en leur fournissant de l'information abondante et précise sur les produits, le matériel et les services de formation. Compétences Plus (également connue sous le nom de base de données sur les ressources de formation) est une base de données informatisée qui dresse la liste de tous les produits et services de formation en milieu de travail disponibles en Ontario. Les cours des collèges communautaires, les cours des écoles de formation professionnelle privées, les ateliers, séminaires, conseillers en formation et matériel pour autodidactes y figurent. La base de données est accessible par un système de télécommunications retransmis par le micro-ordinateur personnel d'un abonné.

2. Perfectionnement professionnel à l'intention des responsables de la formation : Ce programme a pour but de permettre aux responsables de la formation en milieu de travail en Ontario de perfectionner leurs aptitudes. Les services de perfectionnement professionnel comprennent le parrainage de colloques et de séminaires à l'intention des responsables de la formation, le renforcement des aptitudes de formation et la participation dynamique à l'élaboration et à la mise en oeuvre de normes d'excellence dans la formation reconnues dans l'industrie.

3. Fonds d'investissement de formation : Ces fonds ont pour objet de favoriser l'élaboration de produits de formation de qualité pour satisfaire aux besoins spécifiques du monde des affaires et de l'industrie en Ontario. Le Fonds pour matériel de formation finance l'élaboration de cours destinés à être vendus aux

- e) sous réserve de l'approbation du ministre, nommer une personne au poste de chef de la direction et président de la Société;
- f) sous réserve de l'approbation du ministre, préciser les pouvoirs et les obligations du chef de la direction et du président, notamment :

- (i) la responsabilité de la planification, la direction et la gestion de la Société dans son ensemble;

- (ii) la responsabilité de la supervision des principaux domaines d'activité de la Société, la planification et la gestion des ressources humaines et ses programmes de communication et de marketing;

- (iii) la liaison avec le sous-ministre de la Formation professionnelle chaque trimestre sur les questions de fonctionnement et autres qui intéressent le sous-ministre ou le président;

- g) nommer les dirigeants de la Société, préciser leurs obligations et leur déléguer les pouvoirs de diriger les affaires de la Société, conformément aux modalités de la Loi sur les compagnies;

- h) élaborer les directives de politique d'investissement pour le Fonds pour matériel de formation et pour le Fonds pour techniques de formation de la Société, sous réserve de l'approbation du ministre.

En 1988-1989, le conseil d'administration intégral s'est réuni neuf fois. Il y avait également 11 réunions de comités du conseil. Ces comités sont les suivants : vérification, investissement, ressources humaines et relations publiques.

Le tableau suivant indique le nombre d'employés de la SOF :

1988-1989

Dirigeants 4*

Personnel de bureau 15

Professions libérales 3

Personnel auxiliaire à plein temps** 5

- * Le président/chef de la direction et trois vice-présidents sont considérés dirigeants de la SOF en vertu de la Loi sur les compagnies.

- ** On engage des conseillers de temps à autre; cependant il n'y a pas de conseillers parmi le personnel actuel.

- a) exécuter le mandat et les objectifs de la Société;
- b) se réunir de temps à autre, au moins six (6) fois par an pour diriger les affaires de la Société;
- c) établir des statuts pour régler les affaires de la Société et les soumettre à l'approbation du ministre avant qu'ils n'entrent en vigueur;
- d) nommer au poste de président du conseil d'administration de la Société la personne désignée par le ministre et, sous réserve de l'approbation du ministre, préciser les pouvoirs et les obligations du président;

Le conseil d'administration a pour but de diriger les affaires de la Société conformément aux modalités de la Loi sur les compagnies et des directives de politique du ministre de la Formation professionnelle. Le conseil d'administration est tenu, entre autres, de :

Il y a actuellement trois sièges vacants au conseil d'administration.

Larry Zeph Président Zeph Technologies Inc. Waterloo	20 juin 1989	2 ans
Vilma Tullio Présidente Medici Investments Ltd. Toronto	4 mai 1988	2 ans
Herman Stewart Directeur commercial Union internationale des ouvriers et ouvrières du vêtement pour dames Toronto	4 mai 1988	20 juin 1989 2 ans
M. Elizabeth Smith Conseillère en formation Collingwood	4 mai 1988	20 juin 1989 1 an
Gary Polonsky Président Collège Durham d'arts appliqués et de technologie Oshawa	20 juin 1989	2 ans
Rose Patton Vice-présidente principale Ressources humaines et planification de l'organisation Financière ManuVie Toronto	4 mai 1988	2 ans

Le conseil d'administration

Le premier conseil d'administration de la SOF a été élu en mars 1988 par le ministre de la Formation professionnelle à titre de seul actionnaire. Le conseil peut avoir jusqu'à 14 membres issus du monde des affaires, du travail et de la formation.

Le président du conseil d'administration est M. David Lewis, de la Corporation financière Midland Doherty. Le chef de la direction est M^{me} Sandra Birkenmayer.

Voici le nom, le titre et la date de nomination des membres actuels du conseil d'administration.

Nom et titre	Date de nomination	Reconduction	Durée du mandat
David Lewis (président) Président Corporation financière Midland Doherty Toronto	4 mai 1988		3 ans
Dick Barry Président Travailleurs unis de l'électricité/radio et de la machinerie du Canada (UE) Toronto	20 juin 1989		1 an
John Bettes Représentant national Syndicat national des travailleurs et travailleuses de l'automobile, de l'aérospatiale et de l'outillage agricole du Canada Willowdale	4 mai 1988		2 ans
Joan Bolland Vice-présidente Région de l'Est Ressources humaines Rogers Telecommunications Don Mills	4 mai 1988	20 juin 1989	2 ans
Lawrence Martin Directeur général WaWatay Native Communications Society Sioux Lookout	20 juin 1989		2 ans

LA SOCIÉTÉ ONTARIENNE DE FORMATION

La Société ontarienne de formation (SOF) a été constituée le 27 avril 1988 en personne morale comme société de la Couronne visée à la Loi sur les compagnies de l'Ontario (S.O. 1982, chap. 4) avec le ministre de la Formation professionnelle comme seul actionnaire. La SOF est une société de la Couronne visée par la Loi sur les organismes de la Couronne (L.R.O. 1980, chap. 106).

La Société ontarienne de formation fait partie de la Stratégie de formation professionnelle de l'Ontario que le gouvernement de M. Peterson a annoncée en septembre 1986. Cette stratégie est conçue pour favoriser un environnement dans lequel les employeurs et les travailleurs prennent conscience de l'importance de l'apprentissage et de la formation permanente de façon que la formation professionnelle devienne partie intégrante de l'expérience du travail.

Les objectifs de la Société ontarienne de formation qui figurent dans ses statuts constitutifs sont les suivants :

- appuyer l'élaboration de programmes de formation professionnelle en milieu de travail perfectionnés et compétitifs en Ontario;
- exploiter une banque de données fournissant des renseignements étendus sur les produits et services de formation;
- investir dans l'élaboration de matériel de formation qui réponde aux besoins de la population active dans des secteurs sélectionnés de l'économie;
- investir dans la création de technologies pouvant être appliquées à la formation en milieu de travail; et
- renforcer les aptitudes des responsables et des professionnels de la formation professionnelle de la province.

Par conséquent, le comité recommande que :

13. La Commission d'appel du régime d'aide financière aux étudiants de l'Ontario examine ses procédures de vérification et songe à mettre en oeuvre un mécanisme de vérification avant de déboursier des fonds.
- Les témoins ont indiqué que la révision des politiques allait tenir compte des besoins particuliers des étudiants handicapés. Le comité appuie la décision de la Direction de l'aide financière aux étudiants de tenir compte des besoins particuliers des étudiants handicapés dans son examen actuel des politiques.

Les témoins ont signalé qu'on avait commencé l'examen des politiques du RAFFEO. Ils ont fait remarquer que dès que l'on aura révisé les critères du RAFFEO pour tenir compte de la nouvelle réalité sociale, le nombre d'appels devrait diminuer.

Le comité reconnaît que la situation sociale a changé depuis 1978 et qu'il faut réexaminer les critères du RAFFEO.

Par conséquent, le comité recommande que :

11. Le ministère des Collèges et Universités surveille de près le nombre de cas soumis à la Commission d'appel du régime d'aide financière aux étudiants de l'Ontario après l'adoption des nouveaux critères en 1991. Si le nombre de cas ne diminue pas comme prévu, le ministère pourra procéder à un examen du mandat de la Commission.

Les témoins ont reconnu qu'il faudrait peut-être tenter davantage de souligner l'existence de la Commission d'appel dans la documentation du RAFFEO.

Par conséquent, le comité recommande que :

12. La documentation relative au Régime d'aide financière aux étudiants de l'Ontario distribuée aux étudiants fasse une plus grande place à la Commission d'appel du régime d'aide financière aux étudiants de l'Ontario. Ces textes devraient souligner les critères que la Commission d'appel utilise pour attribuer des fonds lors de l'appel.

Les témoins ont reconnu que le formulaire du RAFFEO était complexe et ont signalé qu'une nouvelle version simplifiée serait disponible le 1^{er} avril 1990. Malgré les efforts déployés par le ministère et par la Direction de l'aide financière aux étudiants pour simplifier le formulaire de demande, le comité trouve qu'on pourrait encore le simplifier davantage.

Les membres ont demandé aux témoins d'expliquer comment la Direction vérifiait les renseignements fournis par les étudiants sur leur formulaire de demande. Les témoins ont répondu que la vérification ne s'effectuait qu'après que les fonds ont été accordés et déboursés.

Voici la décision des appels soumis à la Commission durant l'année universitaire 1988-1989 :

- Appels acceptés tels quels : 8 (18 %)
- Appels acceptés après modifications : 9 (20 %)
- Appels refusés : 28 (62 %)
- Nombre de cas examinés : 45

Obligation redditionnelle et contrôle

En vertu de l'instruction 6-2-2 de mai 1986 du Conseil de gestion du gouvernement, la Commission d'appel du RAFFEO est classée comme organisme réglementé visé par l'annexe I. Elle a conclu un protocole d'entente avec le ministre des Collèges et Universités en 1981. La Commission d'appel relève du lieutenant-gouverneur en conseil par l'entremise du ministre. Cette obligation redditionnelle s'exerce par l'entremise du ministre aux réunions de la Commission d'appel, par des consultations régulières avec les fonctionnaires du ministère et le contrôle que le ministre exerce sur les dépenses de la Commission. En outre, l'Association des administrateurs de l'aide financière de l'Ontario, dont les membres sont employés des universités et collèges provinciaux, et qui a droit de siéger à la Commission, soumet des rapports régulièrement au ministre sur le fonctionnement et les procédures de la Commission d'appel.

En novembre 1986, la Commission d'appel du RAFFEO a fait l'objet d'un examen. Celui-ci conclut que la Commission devrait poursuivre son activité et qu'il n'y avait pas lieu de modifier sa structure ou ses rapports avec le ministre des Collèges et Universités.

Recommandations

Les membres ont demandé aux témoins qui représentaient la Commission d'appel pourquoi on avait accepté un pourcentage aussi élevé d'appels au niveau de la Direction. On leur a répondu que les directives initiales du RAFFEO dataient de 1978 et que, depuis, la situation sociale avait changé. En raison de la rupture des familles, les étudiants ne pouvaient plus compter sur leurs parents pour les aider financièrement. Le processus d'appel permet à la Direction de l'aide financière aux étudiants de tenir compte de ce facteur. Étant donné qu'un pourcentage élevé des requérants ont obtenu gain de cause auprès de la Direction, ceux qui étaient rejetés à ce niveau reconnaissaient généralement le manque de fondement de leur cause et décidaient donc de ne pas interjeter appel.

Les panels de la Commission d'appel se réunissent habituellement une fois par semaine, par téléconférence, selon les besoins, durant l'année universitaire. Un panel de la Commission comprend généralement un représentant des étudiants, un administrateur de l'aide financière d'un collège ou d'une université et un représentant du public. On effectue un roulement parmi les membres des panels et on ne demande jamais à un étudiant ou à un administrateur de l'aide financière provenant du collège ou de l'université de l'étudiante ou de l'étudiant faisant l'objet de l'appel de faire partie du panel.

L'audience a généralement lieu dans les deux semaines qui suivent la demande d'appel. On fait parvenir un exemplaire du dossier complet des cas aux membres de la Commission avant l'audience. Les administrateurs de l'aide financière des collèges et universités demeurent à la disposition des étudiants pour les aider à rédiger leur demande. Un fonctionnaire du ministère est à la disposition de la Commission pour l'aider à organiser ses réunions, surveiller ses activités et enregistrer ses décisions. On consigne les décisions de la Commission dans le dossier de l'étudiante ou de l'étudiant, et chaque membre de la Commission ayant participé au débat signe la décision pour indiquer son acceptation du vote de la majorité.

Voici les résultats des réunions de la Commission d'appel au cours des trois dernières années.

1986-1987	- Nombre de réunions	- 8 (environ)
	- Nombre de cas	- 11
1987-1988	- Nombre de réunions	- 11 (environ)
	- Nombre de cas	- 13
1988-1989	- Nombre de réunions	- 20 + 2 séances d'orientation
	- Nombre de cas	- 45

Les membres de la Commission touchent une indemnité journalière de 30 \$ pour une demi-journée d'audience et de 60 \$ pour une journée entière.

Le processus d'appel du RAFFEO

Le bulletin d'instructions du RAFFEO pour 1989-1990 énumère les raisons suivantes qui constituent un motif d'appel de la décision initiale du RAFFEO.

Dépenses exceptionnelles

Le requérant peut interjeter appel et solliciter des fonds supplémentaires pour couvrir des dépenses exceptionnelles comme les frais médicaux ou dentaires non remboursés par l'assurance.

Un changement dans la situation financière de l'étudiante ou de l'étudiant

Les étudiants dont la situation financière change après la soumission de la demande initiale, ou après l'attribution d'une bourse ou d'un prêt, peuvent obtenir des fonds supplémentaires en interjetant appel.

Incapacité de contribuer comme prévu

Les étudiants qui ne sont pas en mesure de contribuer comme prévu à leurs frais de scolarité peuvent obtenir des fonds supplémentaires en interjetant appel.

Un appel pour fonds supplémentaires doit être soumis (et reçu par le ministère) au moins huit semaines avant la fin de l'année universitaire actuelle.

Durant l'année universitaire 1988-1989 (la dernière année pour laquelle nous disposons de statistiques), la Section des appels de la Direction de l'aide financière aux étudiants a reçu 2 099 demandes d'appel.

Le fonctionnement de la Commission d'appel

Au début de chaque année universitaire, au mois d'août, le personnel du ministère des Collèges et Universités organise une séance d'orientation d'une journée entière à l'intention des membres de la Commission d'appel. Cet exercice permet aux membres de se familiariser avec le RAFFEO, le processus d'appel et les types d'appels qu'ils seront amenés à examiner.

Structure et organisation de la Commission d'appel

À l'heure actuelle la Commission d'appel est composée des membres suivants :

Nom	Poste	Date de nomination à la Commission
M ^{me} Aase Cuthbert	AAF	Octobre 1989
M. Robert Griffiths	AAF	Octobre 1989
M ^{me} Charlene Shaw	AAF	Octobre 1989
M ^{me} Mariette Thomas	AAF	Octobre 1989
M. Kelvin K. W. Au	Étudiant	Octobre 1989
M. Greg Beckford	Étudiant	Octobre 1989
M ^{me} Joan Simpson	Public	Août 1989
M ^{me} Gwendolyn Woermke	Public	Octobre 1989
M. Ross Babion	Public	Août 1989
M. Leonard Bechard	Public	Décembre 1989

À l'heure actuelle, deux des quatre postes réservés aux représentants des étudiants sont vacants.

Les administrateurs de l'aide financière des collèges et universités (AAF) et les présidents de l'Association des étudiants nomment les membres représentant les étudiants qui devront être approuvés par le ministre des Collèges et Universités. Le nombre des mandats n'est pas limité officiellement, mais les membres restent d'habitude pour un à deux mandats. Le ministre des Collèges et Universités approuve les membres représentant le grand public. Il n'y a aucune limite au nombre de mandats en ce qui concerne les membres du public nommés à la Commission. L'Association des administrateurs de l'aide financière aux étudiants de l'Ontario nomme les membres représentant les administrateurs de l'aide financière, et le ministre des Collèges et Universités les approuve. Ils siègent la durée d'un mandat.

La Commission d'appel n'a ni employés, ni budget distinct. Elle bénéficie d'une aide administrative et financière de la Direction de l'aide financière aux étudiants du ministère des Collèges et Universités.

LA COMMISSION D'APPEL DU RÉGIME D'AIDE FINANCIÈRE AUX ÉTUDIANTS DE L'ONTARIO

Le Régime d'aide financière aux étudiants de l'Ontario (RAFFEO) a été créé en 1966 pour permettre aux étudiants des établissements d'enseignement postsecondaire issus de familles à revenu faible à modéré de poursuivre leurs études. Il repose sur le principe fondamental que c'est l'étudiante ou l'étudiant et ses parents qui doivent défrayer les coûts de l'éducation. Le RAFFEO est conçu comme un appoint et non comme une source de financement des études.

En vertu de règlements pris en application de l'article 7 de la Loi sur le ministère des Collèges et Universités (L.R.O. 1980, chap. 272), une étudiante ou un étudiant a le droit de faire appel du rejet de sa demande d'aide financière. Le processus d'appel du RAFFEO reconnaît que, dans certains cas, il faut faire abstraction des principes fondamentaux du programme portant sur la responsabilité financière de l'étudiante ou de l'étudiant ou des parents pour défrayer le coût des études ou les réduire pour tenir compte des cas particuliers. La Section des appels de la Direction de l'aide financière aux étudiants examine d'abord les dossiers d'appel. Si la Section des appels n'accède pas à la demande de l'étudiante ou de l'étudiant de supprimer ou de réduire sa responsabilité financière ou celle de ses parents, l'étudiant ou l'administrateur du bureau de l'aide financière de son université peut interjeter appel auprès de la Commission d'appel du RAFFEO.

À l'origine, la Commission d'appel était composée de six administrateurs de l'aide financière des collèges et universités de la province. En 1983, cette commission a été remplacée par la Commission d'appel du RAFFEO, conformément aux modalités de l'article 3 (3) de la Loi sur le ministère des Collèges et Universités, qui autorise le lieutenant-gouverneur en conseil à nommer des organismes consultatifs. On a créé cette Commission d'appel pour permettre à un organisme indépendant du processus d'appel normal d'examiner les demandes d'étudiants qui ont fait l'objet d'un rejet. La Commission d'appel est constituée de 12 membres : quatre étudiants qui fréquentent un collège ou une université, quatre personnes du grand public et quatre administrateurs de l'aide financière. Étant donné que la Commission d'appel est constituée de membres représentant les étudiants, le grand public et les administrateurs de l'aide financière des collèges et universités, la demande de l'étudiante ou de l'étudiant est examinée par ses pairs, le public et les administrateurs du programme.

d'évaluer le bien-fondé des décisions de la Commission et en particulier de déterminer si, à l'heure actuelle, la libération conditionnelle est accordée avec plus ou moins d'indulgence qu'auparavant.

Par conséquent, le comité recommande que :

8. La Commission ontarienne des libérations conditionnelles recueille des données statistiques sur les personnes en liberté conditionnelle et utilise ces renseignements pour évaluer ses procédures et le bien-fondé de ses décisions.

Le comité estime que les panels de la Commission ontarienne des libérations conditionnelles pourraient bénéficier d'un témoignage direct sur la gravité de l'infraction commise par le requérant au moment de juger s'ils peuvent accorder la libération conditionnelle à un contrevenant.

Par conséquent, le comité recommande que :

9. Les victimes d'infractions criminelles graves aient la possibilité de s'adresser aux panels de la Commission ontarienne des libérations conditionnelles avant que ces derniers décident d'accorder des libérations conditionnelles.

Lorsque le président du comité a demandé à la Commission de signaler tout problème qu'elle jugeait nécessaire d'aborder, la Commission a répliqué que la circulation de l'information entre les organismes de droit criminel se révélait insatisfaisante en raison de «barrières systémiques».

Par conséquent, le comité recommande que :

10. Le ministère des Services correctionnels examine le fonctionnement des programmes de services correctionnels afin de garantir une meilleure circulation des renseignements, d'une part, entre les tribunaux et la police et, d'autre part, entre les pouvoirs correctionnels et de libération conditionnelle.

Recommandations

conditionnelle. Elle désire aussi rendre obligatoire l'enregistrement audio de toutes les audiences et mettre sur pied un programme d'évaluation complet et un plan d'examen. Enfin, elle a aussi entrepris la vérification des dossiers au niveau régional en vue d'examiner le respect de la politique de la Commission de la part des bureaux régionaux. (Voir Rapport annuel du Bureau du vérificateur provincial pour 1989, p. 108-109.)

Dans son témoignage, la Commission annonçait son intention de procéder à l'enregistrement audio de toutes les audiences des libérations conditionnelles. Certains membres du comité redoutent que cet enregistrement viole l'intimité des détenus et empêcherait certaines personnes admissibles à la libération conditionnelle de confier leurs problèmes aux interviewers de la Commission. La Commission a répliqué que l'enregistrement se ferait avec le consentement préalable du candidat à la libération conditionnelle. Elle soutient que l'enregistrement a l'avantage d'être exact et d'être utile pour les cours de formation ou les examens.

Par conséquent, le comité recommande que :

6. Le ministère procède à un examen complet de la question de l'enregistrement des audiences de libération conditionnelle avant d'accorder ce pouvoir à la Commission ontarienne des libérations conditionnelles.

Certains membres du comité ont laissé entendre que les agents de libération conditionnelle étaient actuellement surchargés et qu'ils ne pouvaient surveiller adéquatement les personnes en liberté conditionnelle. La Commission a répliqué qu'elle était satisfaite de leur supervision.

Par conséquent, le comité recommande que :

7. Le ministère des Services correctionnels effectue un examen du système de libération conditionnelle, plus particulièrement en ce qui a trait au nombre de cas par agent, au salaire de ces derniers, à leurs conditions de travail et à leur supervision.

Il était évident d'après les questions des membres que la Commission ne disposait pas de statistiques suffisantes sur le taux de récidive des personnes en liberté conditionnelle comparativement à celles qui purgent leur peine entièrement, sur la gravité des infractions commises par les récidivistes et sur le nombre de requérants de libération conditionnelle d'origine autochtone. Le comité craint qu'en l'absence de telles données il soit impossible

et le comité de hauts fonctionnaires du ministère. Le président de la Commission a l'obligation de soumettre un rapport annuel au ministre.

En 1985, le ministère des Services correctionnels passait en revue le fonctionnement de la Commission ontarienne des libérations conditionnelles en vue de clarifier les rapports hiérarchiques entre le ministère et la Commission et aussi en vue de déterminer si la Commission disposait des ressources suffisantes pour remplir son mandat. En 1989, la Direction de la révision des opérations, de la vérification et des enquêtes du ministère entreprenait une vérification des bureaux de la Commission afin d'évaluer le respect des directives et politiques du ministère et du Conseil de gestion du gouvernement. En 1987 et 1989, on demandait à des experts-conseils en gestion d'étudier la structure et les processus de gestion de la Commission. Aucun comité de l'Assemblée législative n'a effectué d'examen de la Commission depuis les cinq dernières années.

En 1989, le Bureau du vérificateur provincial effectuait une vérification de la Commission ontarienne des libérations conditionnelles. Cette vérification visait à déterminer si la Commission tenait suffisamment compte de la sécurité publique dans ses procédures. Afin de s'assurer de l'application des procédures établies et de la concordance entre les renseignements du dossier et les décisions prises par la Commission, on a procédé à l'examen de 100 dossiers. Le vérificateur provincial a conclu que les procédures appliquées par la Commission pour rendre des décisions des libérations conditionnelles s'avéraient raisonnablement efficaces en ce qui a trait à la sécurité du public. De plus, étant donné que 2 pour 100 seulement des personnes se trouvant en liberté conditionnelle au cours de l'exercice 1988-1989 ont vu leur libération révoquée pour cause d'activités criminelles, il est raisonnable de conclure que le processus des libérations conditionnelles suffit à garantir la sécurité du public. Cependant, le vérificateur provincial recommande une meilleure documentation des motifs qui inspirent les décisions des membres de la Commission, ainsi qu'un examen permanent de cas sélectionnés en vue d'améliorer leur qualité et leur uniformité à l'échelle de la province, tout en réduisant encore les risques pour le public. Voir Rapport annuel du Bureau du vérificateur provincial pour 1989, p. 106-107).

Dans sa réponse au vérificateur provincial, la Commission se dit consciente de la nécessité d'améliorer la documentation et a annoncé l'établissement d'une nouvelle série de directives qu'elle appliquera lors de ses audiences pour libération conditionnelle. De plus, la Commission a avancé qu'elle était en train de préparer des cours de formation destinés à améliorer les aptitudes de ses membres à diriger des audiences pour libération

Les salaires des employés à plein temps s'échelonnent comme suit :

Poste	Échelle salariale
Président	63 650 à 95 450 \$
Vice-président directeur et 3 vice-présidents*	51 600 à 64 600 \$
Vice-président	47 700 à 58 900 \$
Membres à plein temps	44 900 à 54 700 \$ 42 700 à 50 800 \$

* Le salaire plus élevé de ces présidents reflète les classifications de leurs postes précédents au sein du ministère, où ils retournent souvent à la fin de leur mandat dans la Commission.

Les membres de la collectivité à temps partiel de la Commission reçoivent une indemnité journalière de 125 \$, dépenses payées.

Obligations et contrôle

La directive 6-2-2 du Conseil de gestion du gouvernement datant de mai 1986 définit la Commission ontarienne des libérations conditionnelles comme un organisme de réglementation visé par l'annexe 1. Cette définition signifie que la Commission se soumet à toutes les directives établies par le Conseil de gestion du gouvernement et doit conclure un protocole d'entente avec le ministère des Services correctionnels. En janvier 1990, le ministère des Services correctionnels et le président de la Commission ontarienne des libérations conditionnelles signaient un protocole d'entente révisée.

Le ministère des Services correctionnels n'émet aucune directive à la Commission, mais il partage avec elle toutes les directives du ministère en matière de politique de fonctionnement. Inversement, la Commission partage avec lui toutes ses directives sur les politiques et les procédures internes.

Le président de la Commission ontarienne des libérations conditionnelles fait partie du comité de direction du ministère. Chaque mois, il doit rencontrer le sous-ministre. Les sous-ministres adjoints et les coordonnateurs généraux du ministère se réunissent tous les trimestres avec le président et le vice-président directeur de la Commission. Les hauts fonctionnaires du ministère reçoivent copie des procès-verbaux des réunions du comité de hauts fonctionnaires de la Commission ainsi que les données statistiques sur la Commission. Les fonctionnaires du ministère sont invités aux conférences de la Commission et vice-versa. La Commission fait des exposés devant le comité de direction

afin d'étudier le cas de chaque détenu. Il examine alors le dossier de prélibération conditionnelle et toute autre information jugée utile et pertinente à propos du caractère, des capacités et des perspectives d'avenir des détenus. Le panel accorde ensuite une entrevue au contrevenant et décide d'accorder ou de refuser la libération conditionnelle ou de reporter la décision à une date ultérieure où le panel disposera de renseignements supplémentaires. Dans tous les cas, sans exception, le panel de la Commission fournit les raisons de sa décision oralement et par écrit au contrevenant. Le tableau suivant indique le nombre de jours complets où les panels de la Commission se sont réunis au cours des trois dernières années :

Nombre de journées complètes

1986-1987	2 440
1987-1988	2 366
1988-1989	2 512

La Commission accorde des libérations conditionnelles à environ 3 500 personnes chaque année, soit environ la moitié du total interviewé. Dans 85 pour 100 des cas de personnes en liberté conditionnelle, tout se passe bien. Sur les 15 pour 100 d'échecs, 13 pour 100 sont révoqués pour violation des conditions et 2 pour 100 pour condamnation ou accusation criminelle ou à leur demande expresse. Ces statistiques sont demeurées relativement constantes au cours des cinq dernières années.

Finances

Le ministère des Services correctionnels finance la Commission ontarienne des libérations conditionnelles, dont le budget fait partie de ses prévisions. Le tableau suivant illustre les dépenses totales effectuées par la Commission au cours des trois dernières années :

	1988-1989	1987-1988	1986-1987
Salaires et avantages sociaux	2 222 612,60 \$	2 104 222,30 \$	1 742 194,10 \$
Transport et communications	414 376,87 \$	450 013,19 \$	393 340,99 \$
Services	974 089,95 \$	894 287,67 \$	771 053,07 \$
Fournitures et matériel	113 725,76 \$	110 464,56 \$	157 138,64 \$
TOTAL	3 724 805,24 \$	3 558 987,86 \$	3 063 726,86 \$

Fonctionnement de la Commission ontarienne des libérations conditionnelles

La Commission tient des audiences dans les établissements correctionnels provinciaux de chacune des cinq régions.

Le tableau suivant illustre la répartition des 46 établissements correctionnels provinciaux pour adultes en fonction des cinq régions de la Commission.

RÉGION DU NORD	RÉGION CENTRE-OUEST	RÉGION CENTRALE	RÉGION EST	RÉGION OUEST
Prison de Pary Sound Prison de Sault-Ste-Marie Prison de Sudbury Prison de Thunder Bay CC* de Thunder Bay Institut correctionnel de l'Ontario Centre pour femmes de Vanier CC* de Mimico Prison de Toronto	CC** de Hamilton-Wentworth CC* de Maplehurst CC** de Niagara Prison de Barrie CD** de la région métropolitaine est de Toronto CD** de la région métropolitaine ouest de Toronto Prison de Brockville Prison de Cobourg Prison de Cornwall Prison de Lindsay Prison de l'Orignal CC* de Millbrook Prison d'Ottawa-Carleton	Prison de Fort Frances Prison de Haileybury Prison de Kenora Prison de Monteth CC* de Monteth Prison de North Bay	Prison de Pembroke Prison de Perth Prison de Peterborough CD** de Quinte Centre de réadaptation et de traitement à Rideau Prison de Whitby Prison de Sarnia Prison de Stratford Prison de Walkerton CD** de Waterloo CD** de Wellington Prison de Windsor	Prison de Brantford CC* de Burich Prison de Chatham CD** d'Elgin-Middlesex CC* de Guelph Prison d'Owen Sound

* Centre correctionnel
 ** Centre de détention

Chaque détenu admissible à une éventuelle libération conditionnelle passe une entrevue devant un agent de probation et des libérations conditionnelles du ministère des Services correctionnels. L'agent coordonne la préparation d'un dossier des libérations conditionnelles comprenant des rapports provenant de services de probation et des libérations conditionnelles, de maisons de transition, d'organismes de services sociaux, d'établissements, de parents et d'employeurs.

Un panel de membres de la Commission ontarienne des libérations conditionnelles, habituellement composé d'un membre à plein temps et de deux à temps partiel, se réunit

PORTRAIT DE LA COMMISSION

31 mars 1989

TOTAL FEMMES MINORITÉS FRANCOPHONES AUTOCHTONES PERSONNES HANDICAPÉES ETHNIQUES

PERSONNEL DE DIRECTION, BUREAU DU PRÉSIDENT	VICE- PRÉSIDENTS	MEMBRES A PLEIN TEMPS	MEMBRES DE LA COLLECTIVITÉ A TEMPS PARTIEL	ADJOINTS ADMINISTRATIFS RÉGIONAUX A LA LIBÉRATION CONDITIONNELLE	PERSONNEL DE SOUTIEN	TOTAL
5	5	11	105	5	24	155
4	1	3	51	4	23	86
3	0	0	7	0	4	14
0	1	0	18	0	6	25
0	0	1	6	0	0	7
0	0	1	0	0	0	1

Leur réintégration n'est pas automatique, mais possible pour un maximum de six années. La désignation se fait par décret.

Le tableau suivant indique le nombre d'employés de la Commission pour les trois dernières années :

	1986-1987	1987-1988	1988-1989
Attributaires du gouvernement			
Membres de la communauté			
à temps partiel	86	103	105
Membres à plein temps*	17	18	18
Autres agent(e)s**	2	2	2
Personnel administratif***	30	30	30
Personnel de soutien			
(i) plein temps	0	0	0
(ii) experts-conseils	0	0	0

* Y compris le président et le vice-président directeur.

** Les titulaires des deux postes de gestion, soit celui de chef analyste des politiques et celui d'administrateur du programme et des projets, sont désignés comme membres à temps partiel et fonctionnaires titulaires.

*** Y compris les adjoints administratifs régionaux à la libération conditionnelle, le directeur, service des opérations, et le personnel de soutien.

En 1988-1989, 25 membres ont quitté les services de la Commission, y compris 22 membres de la collectivité à temps partiel, deux membres à plein temps et un vice-président régional. Cette année, on a désigné 26 nouveaux membres, y compris 24 membres de la communauté à temps partiel, un membre à plein temps et un vice-président régional.

Voici un tableau du personnel et des membres de la Commission, divisé selon les divers groupes cibles désignés en vertu du Programme d'égalité devant l'emploi du gouvernement de l'Ontario. En accord avec ce programme, la Commission continue à vouloir représenter la population ontarienne par le biais de ses membres et de son personnel.

- la libération conditionnelle facilite la réforme et la réadaptation du détenu; et
- sa libération conditionnelle ne fait courir aucun risque indu à la société.

Les contrevenants sont admissibles à la libération conditionnelle après avoir purgé le tiers de leur sentence. Ceux qui purgent des sentences de six mois ou plus sont automatiquement inscrits à une audience personnelle devant la Commission. Les contrevenants purgeant des peines inférieures à six mois et désirant obtenir une libération conditionnelle doivent en faire la demande par écrit.

Advenant l'octroi de la libération conditionnelle, l'individu réside dans la communauté sous la surveillance d'un agent de probation et des libérations conditionnelles, et doit se conformer aux conditions spéciales et habituelles stipulées par la Commission. Selon les conditions habituelles, il doit rendre compte de ses activités, faire preuve de comportements normaux et être présent à l'école ou au travail. Les conditions spéciales peuvent l'obliger à s'abstenir d'alcool ou de narcotiques ou à éviter certaines fréquentations.

Structure de la Commission ontarienne des libérations conditionnelles

Le conseil dirigeant de la Commission ontarienne des libérations conditionnelles, appelé comité de hauts fonctionnaires, se compose de sept membres. Le président se charge de l'administration globale de la Commission. Un vice-président directeur et cinq vice-présidents régionaux rendent compte au président de toutes les décisions prises par la Commission dans les cinq régions qui la divisent. D'autres membres travaillant à plein temps pour la Commission aident le vice-président régional dans ses tâches administratives et président certaines audiences. Tous sont fonctionnaires titulaires nommés par décret.

La Commission compte aussi des membres à temps partiel qui représentent la communauté en général dans le processus décisionnel des libérations conditionnelles. Ces derniers habitent à proximité des 46 établissements correctionnels provinciaux pour adultes. Le vice-président des bureaux régionaux de la Commission s'occupe de répartir le travail entre les membres à temps partiel de la Commission et de leur fournir une formation appropriée en plus de coordonner les revendications financières et les remboursements. La Commission recourt au service de ses membres à temps partiel selon les besoins. Elle leur demande habituellement de six à huit jours de travail par mois. À leur première nomination, les membres à temps partiel disposent habituellement d'un mandat d'un an.

COMMISSION ONTARIENNE DES LIBÉRATIONS CONDITIONNELLES

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En vertu de la Loi sur la libération conditionnelle fédérale (L.R.C. 1986, chap. P-2) et de la Loi sur le ministère des Services correctionnels (L.R.O. 1980, chap. 275), on définit comme contrevenants provinciaux les personnes condamnées à des peines de prison maximales de deux ans moins un jour. En 1910, une commission ontarienne des libérations conditionnelles constituée par décret avait pour but de conseiller le ministre fédéral de la Justice à propos de la mise en liberté des contrevenants provinciaux purgeant la partie indéterminée de leur peine. Une sentence indéterminée était, en vertu de la Loi des prisons et des maisons de correction fédérale (S.C. 1913, chap. 39), une seconde sentence de deux ans moins un jour que le juge pouvait ajouter à la sentence initiale. Sur cette partie de la peine, on ne pouvait obtenir aucune remise, celle-ci étant à la discrétion exclusive de la Commission provinciale des libérations conditionnelles. En 1917, on désignait officiellement la Commission ontarienne des libérations conditionnelles et on lui accordait des pouvoirs en vertu de la Loi des prisons et des maisons de correction. Avec l'adoption de la Loi sur la libération conditionnelle fédérale en 1959, naissait la Commission nationale des libérations conditionnelles, dotée de compétences légales sur la partie déterminée des sentences provinciales. En vertu de cette loi, la Commission ontarienne des libérations conditionnelles continuait à s'occuper de la partie indéterminée des sentences, mais pouvait désormais libérer les contrevenants en plus de recommander leur libération. Les sentences indéterminées furent abrogées par la Loi de 1976 modifiant le droit pénal (S.C. 1976, chap. 53).

Ce n'est qu'en 1978 qu'une modification à la Loi sur la libération conditionnelle donnait à la Commission ontarienne des libérations conditionnelles un pouvoir de décision complet sur la libération conditionnelle de tous les détenus placés dans des établissements correctionnels de compétence provinciale. À l'heure actuelle, la Commission dépend de la Loi sur les libérations conditionnelles fédérale et de la Loi sur le ministère des Services correctionnels de l'Ontario (L.R.O. 1980, chap. 275). La Commission ontarienne des libérations conditionnelles est la plus ancienne au Canada et la plus importante au niveau provincial.

La Commission ontarienne des libérations conditionnelles fonctionne dans le cadre des critères législatifs définis dans la Loi sur la libération conditionnelle fédérale, qui précisent que la Commission peut accorder la libération conditionnelle si elle juge que :

- le détenu a tiré profit au maximum de son emprisonnement;

	1988-1989	1987-1988	1986-1987
Salaires et avantages sociaux	57 241 \$	53 531 \$	16 664 \$
Transports et communications	7 588 \$	1 520 \$	4 234 \$
Services	19 601 \$	4 651 \$	12 185 \$
Fournitures et matériel	17 246 \$	13 359 \$	4 693 \$

À l'heure actuelle, l'indemnité journalière se chiffre à 150 \$ pour le président, 125 \$ pour le vice-président et 100 \$ pour les autres membres de la Commission, en plus des dépenses nécessaires de déplacement et de subsistance.

Recommandations

Le comité a été impressionné par la sincérité des témoins représentant la Commission de révision des placements sous garde. Cependant, le comité met en question l'utilité de la Commission. Celle-ci a reçu seulement 28 demandes de révision en 1989. De plus, elle n'a aucun pouvoir sur les directeurs provinciaux.

Par conséquent, le comité recommande que :

5. La Commission de révision des placements sous garde soit abolie.

- (ii) le transfert de la jeune personne vers un autre endroit si la Commission estime que le lieu actuel de détention ou de transfert de la jeune personne ne peut adéquatement répondre à ses besoins;
 - (iii) la mise en liberté provisoire de la jeune personne en vertu de l'article 35 de la Loi sur les jeunes contrevenants,
 - (iv) advenant le transfert de la jeune personne en vertu du paragraphe 24.2 (9) de la Loi sur les jeunes contrevenants, d'autoriser son retour à un lieu de garde en milieu ouvert; ou
- b) confirmer la décision, placement ou transfert.

Quand cela est possible, la Commission se rend dans un lieu plus pratique pour toutes les parties. À son arrivée, elle peut examiner le dossier à l'endroit convenu. Elle peut aussi, suivant les circonstances, demander au directeur principal de fournir des renseignements écrits tirés du dossier de la jeune personne.

Advenant la tenue d'une audience, la Commission peut suspendre brièvement et rendre sa décision peu après ou ajourner et aviser la jeune personne et son directeur provincial à une date ultérieure. Toutefois, cette date doit demeurer dans les limites du délai de 30 jours à moins que les parties aient convenu d'une prolongation. En dernier lieu, la Commission fera des recommandations écrites et les fera parvenir à la jeune personne, au directeur provincial responsable, au(x) parent(s) ou au tuteur, selon le cas.

En 1989, la Commission a reçu 28 demandes de révision.

Finances

Voici les dépenses totales de la Commission de révision des placements sous garde pour les trois dernières années :

1988-1989	1987-1988	1986-1987
101 676 \$	73 074,43 \$	37 378,67 \$

La Commission prend en charge les dépenses salariales même si le personnel travaille aussi pour d'autres organismes.

Le tableau suivant fournit une ventilation des dépenses de la Commission de révision des placements sous garde :

Fonctionnement de la Commission de révision des placements sous garde

La Commission de révision des placements sous garde a le pouvoir de procéder à des examens, conformément à l'article 93 de la Loi de 1984 sur les services à l'enfance et à la famille. Les jeunes personnes peuvent faire une demande auprès de la Commission pour obtenir un examen de :

- a) la décision d'un directeur provincial quant à la détention ou au transfert de la jeune personne dans un lieu de détention à sécurité maximale,
- b) l'endroit particulier de détention ou de transfert de la jeune personne,
- c) du refus d'un directeur provincial à autoriser la mise en liberté provisoire de la jeune personne en vertu de l'article 35 de la Loi sur les jeunes contrevenants, ou
- d) le transfert de la jeune personne à partir d'un lieu de garde en milieu ouvert vers un lieu de garde en milieu fermé en vertu du paragraphe 24 (9) de la Loi sur les jeunes contrevenants.

Outre les fonctions susmentionnées, la Commission révisera le placement des probationnaires à qui le tribunal pour adolescents ordonne de résider dans un lieu spécifié par un directeur provincial lorsque le lieu spécifié est désigné lieu de garde en milieu ouvert.

La jeune personne doit faire sa demande auprès de la Commission moins de 30 jours après la décision du directeur provincial, placement ou transfert.

La Commission doit procéder à un examen pour chaque demande et peut le faire en tenant une audience. Au maximum 10 jours après réception de la demande, la Commission doit aviser la jeune personne de son intention de tenir ou non une audience. Au maximum 30 jours après réception de la demande de la jeune personne, la Commission doit avoir terminé la révision et pris une décision à moins d'avoir tenu une audience et obtenu le consentement de la jeune personne et de son directeur provincial en vue d'une prolongation.

Après l'audience ou la révision, la Commission peut :

- a) recommander au directeur provincial :

- (i) le transfert de la jeune personne vers un lieu de détention à sécurité moyenne,

Structure et organisation de la Commission

Le ministère des Services sociaux et communautaires et le ministère des Services correctionnels ont créé la Commission de révision des placements sous garde en tant que commission mixte désignée conjointement. Les désignations se font par décret.

Voici les membres actuels de la Commission :

Lorraine Watson, présidente
Désignée par le MSC
Durée = 21 avril 1988 au 20 avril 1991
Présidence = 1^{er} août 1989

Keith Quigg, membre
Désigné par le MSSC
Durée = 24 octobre 1988 au 23 octobre 1990

Patricia Yaternick, membre
Désignée par le MSSC
Durée = 24 octobre 1988 au 23 octobre 1990

Clive Banton, membre
Désigné par le MSSC
Durée = 24 octobre 1988 au 23 octobre 1990

Chaque membre de la Commission exerce son mandat pendant six mois, un an, deux ans ou trois ans, renouvelable pour un autre mandat de trois ans au maximum au gré du gouvernement. Le lieutenant-gouverneur en conseil nomme un des membres de la Commission à la présidence et peut nommer un ou plusieurs autres membres à la vice-présidence. Le président assigne les membres de la Commission à diverses audiences et révisions. La Commission ne peut compter plus de 15 membres. Un seul membre de la Commission constitue le quorum.

La Commission de révision des placements sous garde employait une personne à plein temps en 1986-1987, deux en 1987-1988 et deux en 1988-1989, soit le coordonnateur et le secrétaire. Ces employés proviennent du ministère des Services sociaux et communautaires et fournissent aussi des services de soutien à bon nombre d'autres conseils et commissions travaillant sous la direction de ce ministère. Le travail qu'ils effectuent pour la Commission de révision des placements sous garde occupe environ la moitié ou moins de leurs heures de travail.

La Commission de révision des placements sous garde a été mise sur pied en vertu de la Loi de 1984 sur les services à l'enfance et à la famille (L.O. 1984, chap. 55) et de la Loi sur le ministère des Services correctionnels (L.R.O. 1980, chap. 275).

Au niveau fédéral, la Loi sur les jeunes contrevenants (L.C. 1980, art. 24.2 (9)) autorise les tribunaux pour adolescents à confier le jeune contrevenant à une institution de garde en milieu fermé ou en milieu ouvert, ou dans un milieu résidentiel en vertu d'une ordonnance de probation. Les directeurs provinciaux, nommés par la province, rendent des décisions sur certains placements précis et sur l'octroi de mises en liberté provisoire dans la communauté. À la demande des jeunes contrevenants, la Commission de révision des placements sous garde réexamine les décisions des directeurs provinciaux. La Commission émet ses recommandations aux directeurs provinciaux, qui choisissent ensuite d'en tenir compte ou non. Ces recommandations ne donnent aucun droit d'appel aux requérants. La Commission est un organisme indépendant dont les recommandations ne sont soumises à aucune révision par les ministres ou fonctionnaires des ministères des Services sociaux et communautaires ou des Services correctionnels.

Il faut noter que la Commission de révision des placements sous garde a d'abord rempli deux rôles intermédiaires. Premièrement, en vertu de règlements adoptés conformément à la Loi sur le ministère des Services correctionnels, la Commission a accompli des tâches qui incombaient auparavant au Conseil consultatif sur les centres d'éducation surveillée auprès des enfants qui étaient sous tutelle de la Couronne en vertu de la Loi sur les centres d'éducation surveillée (L.R.O. 1980, chap. 508, abrogée par L.O. 1984, chap. 19, art. 12 (1)) jusqu'à échéance ou annulation des tutelles. Le dernier pupille quittait le système en avril 1988. Deuxièmement, la Commission de révision des placements sous garde a agi en qualité de Comité des admissions au traitement en milieu fermé. C'est-à-dire que les enfants placés à long terme dans un centre de traitement en milieu fermé devaient passer une audience devant ce comité pour avoir droit à une admission ou à une prolongation de la durée du placement. Depuis avril 1989, cette fonction incombe au système judiciaire, en vertu d'une modification de la Loi sur les services à l'enfance et à la famille.

Beaucoup de membres ont interrogé la Commission à propos des critères utilisés pour décider du moment d'envoyer cette mise en garde au ministre. Ils ont été surpris d'apprendre que la Commission avait pris ces décisions (en 1984 et en 1989) sans tenir compte des répercussions des effets de la grève sur le taux d'abandon des étudiants. Lorsqu'un membre a demandé à la Commission combien d'étudiants devaient avoir perdu leur année avant qu'elle ne se décide à aviser le ministre, elle n'a pas su répondre.

Par conséquent, le comité recommande que :

2. La Commission des relations de travail dans les collèges élabore des critères par écrit à appliquer pour aviser le ministre que la grève compromet la réussite des étudiants. Ces critères devraient exiger que la Commission tienne compte de tous les renseignements disponibles sur les effets des grèves antérieures sur le taux d'abandon des étudiants.

La Commission a accepté la critique de M. Gandz à propos de ses moyens de recueillir les renseignements. Selon la Commission, la collecte et l'analyse des données relatives aux affectations et charges de travail étaient onéreuses. La Commission ne recueille pas les renseignements disponibles dans les collèges parce que les parties avaient indiqué que ceux-ci ne les intéressaient pas.

Par conséquent, le comité recommande que :

3. La Commission des relations de travail dans les collèges s'efforce à tout prix de recueillir des renseignements à jour sur les questions en cause, surtout en matière d'affectations et de charge de travail des enseignants et de diffuser ces renseignements aux parties. La Commission devrait charger un employé de cette responsabilité.

Le comité a constaté que le système de négociations centralisé ne tenait pas suffisamment compte de la variété et de la complexité des problèmes auxquels font face les collèges communautaires particuliers. Ceux-ci ont été constitués pour répondre aux besoins particuliers des communautés locales. Le comité estime que lorsque le ministère examinera le rapport Gandz, il devrait songer sérieusement à autoriser la négociation locale.

Par conséquent, le comité recommande que :

4. Si la négociation collective continue à se faire au niveau provincial, il faudrait encourager fortement la négociation locale à l'intérieur de ce cadre provincial.

Selon le plan, la Commission a l'intention de former un groupe de 40 enquêteurs et médiateurs chevronnés et bien formés, ainsi que de formuler des directives pour désigner les enquêteurs.

Recommandations

Le comité a été impressionné par la critique du système de négociation collective dans les collèges d'arts appliqués et de technologie et de la Commission des relations de travail dans les collèges d'arts appliqués et de technologie, qui figure dans le rapport de la Commission Gandz. Quand M. Gandz a témoigné devant le comité, il a fait remarquer que, selon lui, son analyse est toujours exacte, deux ans après la publication de son rapport.

Le comité est d'accord avec les conclusions générales du rapport Gandz. Il est bien évident que le système de négociation collective dans les collèges d'arts appliqués et de technologie ne fonctionne pas bien. La Commission des relations de travail dans les collèges n'est qu'un élément de ce problème complexe.

Par conséquent, le comité recommande que :

1. Le ministère des Collèges et Universités publie le plus vite possible une réponse au rapport de la Commission Gandz.

Le comité approuve l'analyse générale effectuée par M. Gandz des causes du manque d'intérêt, chez les parties du système, à conclure les négociations d'une façon expéditive. Jusqu'à ce qu'il ait pris une décision à propos de sa réponse officielle au rapport Gandz, le ministère devrait interdire les grèves dans les collèges durant l'année scolaire et imposer l'arbitrage exécutoire aux parties, si celles-ci ne concluent pas d'entente avant le 1^{er} septembre.

En cas de grève, le ministère n'interviendrait généralement pas dans le processus de négociation collective tant que la Commission des relations de travail dans les collèges ne lui envoie pas un avis de mise en garde sur la perte de l'année scolaire. Lors de la grève de 1984, la Commission a envoyé cet avis le 17^e jour ouvrable de la grève. Cependant, durant la grève de 1989, le commissaire a attendu le 20^e jour ouvrable de la grève pour aviser le ministre.

force exécutoire sur les questions en litige susceptibles de servir par la suite de point de départ à une entente.

Gandz a signalé les trois buts principaux que l'enquête en vertu de la Loi sur la négociation collective dans les collèges d'arts appliqués et de technologie était censée atteindre.

- Les parties peuvent bénéficier de l'avis d'un professionnel expérimenté qui les aide à présenter les questions à la table de négociation et faire apparaître des données pertinentes se rapportant aux questions en litige.
- La menace d'une révélation publique par l'enquêteur des positions extrémistes adoptées par l'une ou l'autre, ou les deux parties, dans les négociations les incite à écouter la voix de la raison dans les négociations.
- Le public a le droit de savoir ce qui se passe dans les différends du secteur public, et l'enquêteur est en quelque sorte une fenêtre sur les négociations, pour le public.

Gandz prouve indubitablement que tous les participants au processus de négociation collective – les parties en cause, les enquêteurs et les observateurs externes – mettent en cause l'efficacité de l'enquête prise en application de la loi. Il semblerait que l'unité de négociation du personnel de soutien considère l'enquête comme un obstacle législatif dont on ne peut rien attendre de bien. Les enquêteurs des négociations du corps professoral ont signalé qu'on avait tendance à les faire intervenir au stade initial des négociations plutôt qu'au moment où les négociations sont dans une impasse; par conséquent, ils ne pouvaient commenter que les positions initiales des parties, et non leurs positions finales. Gandz prétend que lorsque l'enquête s'effectue aux premiers stades des négociations, le public n'est pas avisé des vraies questions en litige et des chances réelles du déclenchement de la grève. Il ajoute qu'il est bien évident que la menace d'une divulgation publique ne fait pas dévier les parties en cause de leur position.

Autres questions

Dans le plan stratégique de 1989, la Commission des relations de travail dans les collèges a répertorié les questions d'actualité suivantes ayant besoin d'être résolues :

- l'accroissement du taux de rotation et d'abandon de service des personnes qui ont joué le rôle d'enquêteur et de médiateur;
- la nécessité de renforcer le processus de l'enquête afin d'aider les parties en cause à négocier de façon plus efficace; et
- le besoin d'accroître l'efficacité du processus de nomination des enquêteurs.

responsabilité en vertu de la Loi sur la négociation collective dans les collèges d'arts appliqués et de technologie pour recueillir des données et fournir une analyse statistique des questions aux parties, qui, selon M. Gandz, était désespérément nécessaire. Il indiquait que les parties mettaient en doute le professionnalisme de la Commission en ce qui concerne les votes de grève et les modalités de réception de la dernière offre.

M. Gandz a fait un certain nombre de recommandations pour renforcer la Commission, réviser son mandat et le raffermir. Il faudrait accorder à la Commission des ressources suffisantes pour qu'elle puisse fournir des données objectives et spécialisées aux participants à la procédure de négociation. Elle devrait améliorer ses procédures pour organiser des votes supervisés. Il faudrait élargir le mandat de la Commission pour qu'elle ait des fonctions judiciaires et quasi judiciaires dans le cadre des négociations collectives dans les collèges. M. Gandz estime que malgré les imperfections qu'il a notées dans le fonctionnement de la Commission, celle-ci peut devenir un participant plus professionnel et crédible à la négociation collective.

Le plan stratégique de 1989

La Commission des relations de travail dans les collèges et la Commission des relations de travail en éducation ont publié conjointement un plan stratégique de 1989. Celui-ci répertorie les problèmes de fonctionnement des deux commissions que le personnel des commissions devra rectifier au cours des deux ou trois prochaines années. Le rapport Gandz avait déjà identifié comme problèmes de nombreux aspects du fonctionnement de la Commission des relations de travail dans les collèges qui sont abordés dans ce plan.

Enquête

L'enquête constitue un élément crucial du fonctionnement de la Commission des relations de travail dans les collèges qui a été évoqué lors de chaque ronde de négociations qui a eu lieu entre le Conseil des affaires collégiales et les responsables des négociations pour le corps professoral et le personnel de soutien.

L'enquête constitue une forme de résolution des différends n'ayant pas force exécutoire, par laquelle une tierce personne, neutre et désintéressée, examine les négociations des parties en litige et rédige un rapport sur les questions sur lesquelles elles s'entendent et sur celles qui restent en litige. L'enquêteur peut formuler des recommandations n'ayant pas

Le rapport de la Commission de la négociation collective dans les collèges (le rapport Gandz)

La Commission de la négociation collective dans les collèges a été créée en janvier 1987 pour examiner la loi régissant la négociation collective dans les collèges d'arts appliqués et de technologie de la province. Le commissaire était M. Jeffrey Gandz, membre du corps enseignant de la faculté d'administration des affaires de l'Université Western Ontario. Il a présenté son rapport au ministre des Collèges et Universités en janvier 1988.

Le rapport est la première grande étude de la Loi sur la négociation collective dans les collèges d'arts appliqués et de technologie et contient d'importantes recommandations à propos de chacun des aspects du système. Des exemplaires du rapport ont été distribués au Syndicat des employés de la fonction publique de l'Ontario, aux conseils d'administration des collèges d'arts appliqués et de technologie, au Conseil des affaires collégiales et autres membres de la communauté collégiale. Le Ministère ne procédera pas à l'application des recommandations du rapport tant qu'il n'aura pas reçu de commentaires de la communauté collégiale.

Le rapport de la Commission Gandz est une critique systématique de la négociation collective dans les collèges communautaires, et contient d'importantes recommandations de changements à tous les niveaux du système, y compris le rôle du gouvernement et du Conseil des affaires collégiales, la définition des unités de négociation, les échéances imposées aux parties conformément à la Loi sur la négociation collective dans les collèges d'arts appliqués et de technologie, et la Commission des relations de travail dans les collèges. En particulier, la Commission Gandz a indiqué que le Conseil des affaires collégiales et le Syndicat des employés de la fonction publique de l'Ontario sont tout à fait incapables de conclure des conventions collectives dans l'unité de négociation du corps enseignant, dans une période raisonnable sans avoir fortement recours à un tiers, à la dernière offre reçue et aux votes de grève. La grève la plus récente de l'unité de négociation du corps enseignant, en octobre et novembre de l'année dernière, semble confirmer l'analyse de M. Gandz.

Le rapport critique plusieurs aspects des opérations de la Commission des relations de travail dans les collèges. M. Gandz révèle qu'actuellement la Commission ne joue pas un aussi grand rôle dans le système de négociation collective dans les collèges que la Commission des relations de travail en éducation dans le système scolaire. La Commission n'avait pas de ressources appropriées pour demander qu'on la décharge de sa

Les salaires et avantages sociaux des employés de la Commission sont payés par la Commission des relations de travail en éducation. En 1988-1989, on estimait les dépenses au titre des salaires et avantages sociaux à 738 041 \$. Le président des commissions des relations de travail en éducation et dans les collèges touche 25 000 \$ par an. Le ministre des Collèges et Universités rembourse au ministère de l'Éducation les fonds relatifs aux tâches effectuées par le président de la Commission des relations de travail dans les collèges. Le vice-président touche 195 \$ par jour plus ses frais pour chaque jour ouvrable, tandis que les autres membres de la Commission touchent 165 \$ par jour plus frais. Le ministre des Collèges et Universités rembourse au ministère de l'Éducation la moitié des coûts engagés pendant chacune de ces journées. Les dépenses totales de la Commission varient d'une année à l'autre, selon que des négociations collectives ont lieu ou non.

Obligation redditionnelle et contrôle

La Commission des relations de travail dans les collèges est classée comme organisme de réglementation visé par l'annexe 1 conformément aux directives du Conseil de gestion du gouvernement. (Elle est toutefois administrativement indépendante et ne nomme pas de personnel en vertu de la Loi sur la fonction publique (L.R.O. 1980, c. 418), ce que les organismes visés par l'annexe 1 font habituellement.) La Commission doit signer un protocole d'entente avec le ministère des Collèges et Universités. Les procédures comptables et administratives de la Commission sont conformes aux directives financières et aux contrôles budgétaires établis par le Ministère. Le budget annuel de la Commission est établi en consultation avec le Ministère et soumis à un vote de l'Assemblée législative qui doit approuver les estimations du ministère des Collèges et Universités. Étant donné que son personnel est nommé par la Commission des relations de travail en éducation, la Commission des relations de travail dans les collèges est administrée conformément au protocole d'entente existant entre le ministère de l'Éducation et la Commission des relations de travail en éducation.

La Commission des relations de travail dans les collèges n'a pas fait l'objet d'un examen et n'a pas fait l'objet d'une vérification par le vérificateur provincial ou un comité législatif depuis cinq ans. Toutefois, un certain nombre de commissions et d'organismes étudient depuis ces dernières années la négociation collective en éducation. Le plus important d'entre eux, en ce qui concerne la Commission des relations de travail dans les collèges, est la Commission de la négociation collective dans les collèges qui a publié son rapport en janvier 1988.

Les négociations conformément à la Loi sur la négociation collective dans les collèges d'arts appliqués et de technologie

Le personnel de soutien

Le personnel de soutien a participé à 10 rondes de négociations conformément à la loi. Chaque ronde a fait l'objet d'une enquête, et huit rondes ont fait l'objet d'une médiation après enquête. Il y a eu cinq votes d'offres finales et trois votes de grève. Il y a eu une grève, en 1979.

Le corps enseignant

Le corps enseignant a participé à 10 rondes de négociations conformément à la loi. Chaque ronde a fait l'objet d'une enquête, et neuf rondes ont fait l'objet d'une médiation après enquête. Il y a eu huit votes d'offres finales et quatre votes de grève. La loi anti-inflationniste a coupé court aux négociations en 1982-1984, et les négociations de 1984-1985 ont abouti à une loi imposant le retour au travail. En 1984-1985, l'année de la première grève, la Commission des relations de travail dans les collèges a avisé le ministre que la grève risquait de faire perdre une année scolaire aux étudiants. La ronde de négociations la plus récente, à l'automne de 1989, comprenait une grève. Il y a eu quatre plaintes relatives aux procédures de vote, qui ont toutes été rejetées après enquête. Il y a eu deux plaintes de négociation de mauvaise foi, qui ont été retirées avant que ne commencent les audiences.

Le financement

Le tableau suivant illustre les dépenses de la Commission au cours des dernières années.

	Estimations 1989-1990	1988-1989	1987-1988	1986-1987
a) Transports et communications	10 000 \$	1 286 \$	8 444 \$	1 273 \$
b) Services	45 600 \$	32 975 \$	49 492 \$	32 386 \$
c) Fournitures et matériel	2 000 \$	2 833 \$	18 571 \$	24 906 \$

Emplacement	Nommé(e) le	Fin du mandat
SWINTON, professeure Katherine E., PRÉSIDENTE	Toronto	1 ^{er} nov. 1987
HAYES, David Allan VICE-PRÉSIDENT	St. Catharines	11 mai 1988
McNEIL, William John	Agincourt	30 avril 1987
ZEILER, John Irwin	Willowdale	6 mars 1986
COUSINEAU, Treva Legault	Sudbury	1 ^{er} mai 1988
Nota : Même effectif que la Commission des relations de travail en éducation (ministère de l'Éducation)		

Bien que la Commission des relations de travail dans les collèges ait de par la loi le pouvoir d'embaucher ses propres employés, en accord avec la Commission des relations de travail en éducation et le ministère de l'Éducation, elle fait appel au personnel employé par la Commission des relations de travail en éducation et rembourse celle-ci de ses services ainsi que d'autres dépenses payées en son nom.

La Commission décide de toutes les nominations et autres questions importantes, mais c'est un directeur général qui s'occupe du fonctionnement quotidien. Celui-ci comporte deux aspects principaux : les services régionaux et les services d'information. Les services d'information fournissent des données à toutes les parties présentes aux négociations. Le travail administratif interne de la Commission est géré par l'intermédiaire d'un groupe des services administratifs. Le tableau ci-dessous illustre la façon dont est réparti le personnel de la Commission des relations de travail en éducation qui, en fait, travaille pour la Commission des relations de travail dans les collèges.

		1988-1989	1987-1988	1986-1987
Directeur général et membres	a)	nommés par le gouvernement	6	6
Aucun	b)	agents élus	-	-
Aucun	c)	autres agents	-	-
Personnel de	d)	personnel de bureau soutien	7	7
Corps professoral	e)	personnel de soutien professionnel :		
		(i) à plein temps	9	9
		(ii) conseillers	0	0

En plus de leur personnel à plein temps, les commissions utilisent un groupe d'environ 75 travailleurs autonomes employés à la journée comme médiateurs et enquêteurs.

La Commission offre également un programme de médiation des griefs dans le cadre des efforts qu'elle fait en permanence pour remplir son mandat conformément à la loi. La médiation des griefs est une procédure conçue pour résoudre les griefs existant entre les parties avant de procéder à l'arbitrage.

Si les deux parties sont d'accord, la Commission nommera une tierce personne neutre quand elle aura épuisé la procédure de règlement des griefs et avant l'arbitrage. Le tiers passera une journée avec les parties, durant laquelle il essaiera, de façon informelle et confidentielle, de régler les griefs. S'il ne peut les régler, les parties gardent leur droit de procéder à l'arbitrage. Si les parties décident de procéder effectivement à l'arbitrage, elles peuvent demander à la Commission de nommer l'arbitre ou le président du conseil d'arbitrage (art. 46).

La Commission a d'autres responsabilités conformément à la loi (art. 56) comme, entre

autres :

- recueillir des données statistiques sur la disponibilité d'employés, la répartition, les activités professionnelles et la rémunération des employés;
- établir, à la demande d'une partie ou dans l'exercice de son pouvoir discrétionnaire, si l'une ou l'autre des parties négocie ou négociait de bonne foi et fait ou faisait tous les efforts possibles pour conclure ou renouveler une convention;
- prévenir le lieutenant-gouverneur en conseil si, selon elle, la poursuite d'une grève ou d'un lock-out ou la fermeture d'un ou de plusieurs collèges compromettra le succès scolaire des élèves touchés.

Structure et organisation

La Commission des relations de travail dans les collèges est composée de cinq membres nommés par le lieutenant-gouverneur en conseil. La durée de la nomination peut varier de un à trois ans, et chaque membre de la Commission a le droit d'être nommé à nouveau à l'expiration de son terme. Les cinq membres de la Commission constituent également la Commission des relations de travail en éducation, dont le mandat conformément à la Loi sur la négociation collective entre conseils scolaires et enseignants (L.R.O. 1980, c. 464) est de surveiller la négociation collective entre les conseils scolaires et les enseignants.

Le tableau ci-dessous indique la composition du conseil actuel et la durée du mandat des membres.

On étendait le droit de grève ou de lock-out à tout le système collégial au même moment qu'on le permettait dans le système d'éducation publique en vertu de la Loi sur la négociation collective entre conseils scolaires et enseignants (L.R.O. 1980, c. 464). L'Assemblée législative a décidé que l'éducation financée par des fonds publics, dans les écoles et les collèges n'était pas un service essentiel et, par conséquent, qu'il fallait que les négociations collectives se fassent librement. Le contraste était frappant avec le secteur hospitalier financé par des fonds publics et avec le secteur public lui-même qui n'avait pas le droit de se mettre en grève ou de faire un lock-out.

Le droit de grève et de lock-out en vertu de la Loi sur la négociation collective dans les collèges d'arts appliqués et de technologie ne peut être exercé qu'après un certain nombre d'étapes, que voici :

- a) un enquêteur doit rencontrer les parties et rendre son rapport public;
- b) quinze jours se sont écoulés après que la Commission a rendu public le rapport de l'enquêteur;
- c) les employés compris dans l'unité de négociation ont tenu un scrutin secret sous la surveillance de la Commission sur la plus récente offre du Conseil; et
- d) les employés compris dans l'unité de négociation ont voté lors d'un scrutin secret tenu sous la surveillance de la Commission, en faveur de la grève.

Les parties peuvent, à tout moment durant la procédure, choisir l'arbitrage exécutoire volontaire ou la sélection des offres finales comme autre moyen de résoudre les conflits. Conformément à la loi, une des parties peut demander à la Commission de nommer un enquêteur (art. 8). La Commission est alors chargée de superviser et d'organiser les votes par voie de scrutin secret (art. 56). Si les parties choisissent un arbitrage exécutoire volontaire ou une sélection des offres finales, elles peuvent demander à la Commission de nommer l'arbitre ou l'arbitre des dernières offres (art. 22-23, 32). La Commission est chargée de former les personnes qui peuvent jouer le rôle de médiateurs, enquêteurs, arbitres ou arbitres des dernières offres (art. 56).

LA COMMISSION DES RELATIONS DE TRAVAIL DANS LES COLLÈGES

I

La rapidité de la croissance économique et le rythme accru des progrès de la technologie en Ontario à la fin des années 50 et au début des années 60 ont conduit à une pénurie de main-d'œuvre qualifiée et instruite. Le gouvernement provincial a réagi en créant en 1965 les collèges d'arts appliqués et de technologie. Le réseau collégial à vocation professionnelle a pour but de répondre aux besoins des collectivités locales et d'être facilement accessible à tous ceux qui désirent parfaire leur éducation et leur formation.

Le réseau des collèges d'arts appliqués et de technologie de l'Ontario comprend actuellement 23 collèges séparés, 90 campus dans plus de 55 villes. Les collèges ont au total 110 000 étudiants à plein temps et 715 000 étudiants à temps partiel. Les collèges emploient plus de 8 000 enseignants et 6 500 employés de soutien. Le système collégial est financé essentiellement au moyen des subventions de fonctionnement accordées par le ministère des Collèges et Universités (environ 615 millions de dollars en 1987-1988), et par le ministère de la Formation professionnelle (145 millions de dollars), des frais de scolarité (112 millions de dollars), et des recettes provenant des programmes achetés par le gouvernement fédéral (149 millions de dollars).

Lorsqu'on a créé les collèges en 1965, on supposait en grande partie que les négociations collectives auraient lieu conformément à la Loi de l'Ontario sur les relations de travail (L.R.O. 1980, chap. 228), la loi générale sur le travail dans la province. Toutefois, la Commission des relations de travail de l'Ontario déclara en 1967 que les collèges n'étaient pas de son ressort puisqu'ils sont des organismes de la Couronne. Le Conseil ontarien des affaires collégiales, corps dirigeant des collèges d'arts appliqués et de technologie, se chargea alors des négociations engagées dans toute la province avec le représentant des négociations pour le personnel de soutien et les professeurs des collèges qui, depuis 1975, est le Syndicat des employés de la fonction publique de l'Ontario.

La Commission des relations de travail dans les collèges a été créée en 1975 conformément à la Loi sur la négociation collective dans les collèges d'arts appliqués et de technologie (L.R.O. 1980, chap. 74) pour s'occuper des négociations collectives entre le Conseil ontarien des affaires collégiales et le Syndicat des employés de la fonction publique de l'Ontario. Pour la première fois, cette loi donnait au personnel de soutien et au corps enseignant des collèges le droit de se mettre en grève et au Conseil ontarien des affaires collégiales le droit de faire un lock-out.

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LE COMITÉ PERMANENT SUR LES ORGANISMES GOUVERNEMENTAUX

NORMAN STERLING
Président

MICHAEL FARNAN
ED FULTON
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TARAS KOZYRA
TONY LUPUSSELLA

ALLAN MCLEAN
BRAD NIXON
BRUCE OWEN
BOB RUNCIMAN
LARRY SOUTH

HAROLD BROWN
Greffier du comité
DAVID POND
Recherchiste

Queen's Park
Juillet 1990

Norman Sterling

Mr. Stue!

Le président du comité,

Le comité permanent des organismes gouvernementaux a l'honneur de présenter son dix-septième rapport et le confie à l'Assemblée.

Monsieur,

L'honorable Hugh Edighoffer,
Président de l'Assemblée législative

M7A 1A2

TORONTO, ONTARIO

ASSEMBLÉE LÉGISLATIVE

LEGISLATIVE ASSEMBLY



Ontario

COMITÉ PERMANENT DES
ORGANISMES GOUVERNEMENTAUX

STANDING COMMITTEE ON
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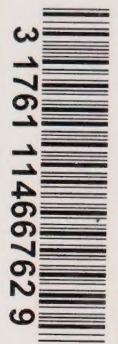
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Rapport sur les organismes,
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